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Thriving on sustainable development: sustainable autopoietic organisations

Hans Robert von Rettig

School of Law

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**Thriving on Sustainable Development
Sustainable Autopoietic Organisations**

Hans Robert von Rettig

**A thesis submitted in partial fulfilment of the
requirements of the University of Westminster
for the degree of Doctor of Philosophy**

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Abstract

This doctoral thesis theorises on how business organisations have reacted to the legal principle of Sustainable Development. The proposition is that Sustainable Development is an event-driven principle of becoming where the present depends both on the organisation's environment and its internal operations. The starting point of the research is the observing of decisions made in relation to Sustainable Development covering a period of around ten years. This is based on four distinctions resulting in a structural, processual, motivational and functional understanding of the organisations in question. The theoretical framework is based on Niklas Luhmann's theory of social systems, emphasising his theory of organisations, contributing new knowledge on how organisations react to their environment, the consequence of a-centricity, poly-contextuality and the un-steerability of society.

Firstly, the thesis demonstrates that, for the companies involved, Sustainable Development has resulted in a better use of resources, both natural and human and consequently capital. Secondly, the result cannot be attributed only to internal industry decisions but significantly also to the direct or indirect involvement of NGOs and other irritants. Thirdly, Sustainable Development can be highly attributed to law but when the environment of law is not satisfied, rules of behaviour outside the legal framework are created by organisations such as NGOs. The research shows that Sustainable Development is not a recipe for success in itself but, without it, long-term profit is not possible.

There is a structural coupling between NGOs, businesses and legislators and this can be seen in the way they communicate with each other. It is clear that although relevant, law is not the only mechanism and, in some cases, not even the best. Rather than forcing businesses into a specific legal framework the best available solution, consistent with theory and application, is for business organisations to reduce difference between themselves and their environment through self-steering when it comes to Sustainable Development and to increase difference when it comes to organisational differentiation.

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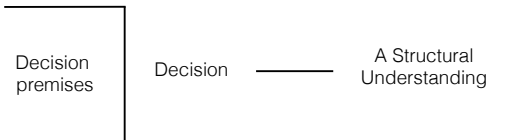


Figure 1.

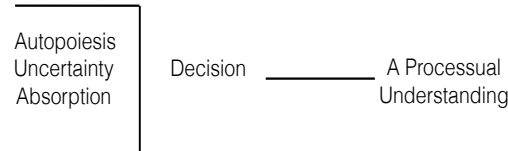


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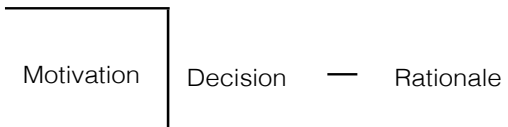


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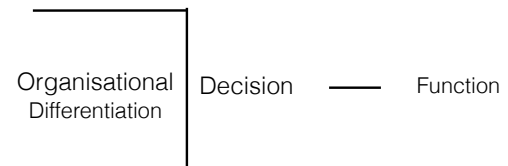


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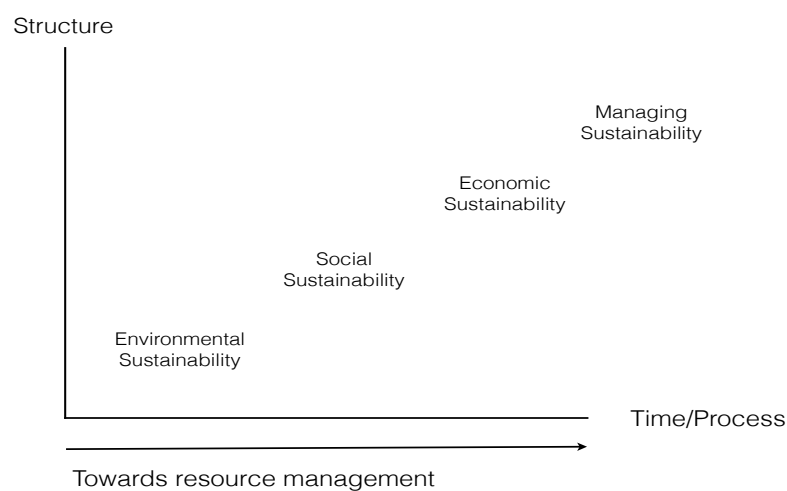


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London, 04.07.2013

Author's Declaration

I declare that all the material contained in this thesis is my own work

Part I

Opening

1. Introduction

When there is a sense of irritation¹ in the environment of business organisations due to the absence of sustainable measures, it is in their interest to integrate Sustainable Development into their business models in order to sustain their autopoiesis. The central argument of this doctoral thesis is that this is what has happened within the Nordic pulp and paper industry, in the form of a paradox that gives simultaneous priority to balancing the three pillars of Sustainability and the economy. The theoretical framework is built around Niklas Luhmann's theory of social systems. The data are based on published reports and interviews with the organisations observed.

Environmental degradation and poverty can be considered the most difficult hurdles society has to face today. This axiomatic proposition brings forward the question - who is in the position to do anything about it? This work focuses on business organisations for the simple reason that they are likely to be the worst polluters,² and simultaneously providers of livelihood for humanity and, therefore, at the same time the ones with the greatest potential to improve the situation. Businesses not governments are the ones that implement Sustainability,³ or in Niklas Luhmann's words: "Yet organisations are the only mechanism by means of which, for instance, fundamental technological changes or thorough going reactions to ecological problems can be implemented".⁴

¹ Moeller, H, 2006, p. 22, Irritation in this instance is a Luhmannian term meaning perturbation, or uneasiness arisen in another system. Irritation is discussed further in chapter 4.1.

² <http://www.worstpolluted.org>, 19.11.2012.

³ Helm, D, 2012, loc. 123.

⁴ Luhmann, N, 2013, p. 157.

With Sustainability or Sustainable Development, in the following I use the words interchangeably; I mean the path towards achieving a balance between environmental (nature), social and economic issues.

Sustainable Development, as defined at the Earth Summit in Rio 1992, seems at face value to have moved society in a more sustainable direction. I believe it can be claimed that Sustainability has reached, or is approaching, the status of principle in international law. Authors, such as Mayeda, support the view that responsibility in contrast to mere obligations is highlighted.⁵ The evolvement towards a principle can also be seen in the New Delhi Declaration of Principles of International Law Relating to Sustainability, made by the International Law Association.⁶ If not a principle in itself, it nonetheless embraces a number of established legal principles. One problem is to find a conclusive meaning, but it is argued that Sustainable Development “has become an established concept with a normative status in international law”.⁷ It should be highlighted that I am not focusing on whether the organisations studied have reached the goal yet - what I am interested in is how they are implementing the process towards Sustainability. This thesis is about how the studied organisations evolve through their unique implementation of Sustainability.

There are other non-legal definitions of Sustainability not based on Sustainable Development. Stallworthy uses the following: “Sustainability is about respecting the process at work in our ecosystem so as to ensure, or at least prolong, our survival as a species, and concerns our level of connectedness with future generations”.⁸ The problem with this definition is that it does not give clarity to what extent human beings are taken into account. Too much emphasis on one of the three pillars of Sustainable Development could have negative consequences for the other

⁵ Mayeda, G, 2004, p. 29.

⁶ International Law Association, *New Delhi Declaration of Principles of Principles of International Law Relating to Sustainability*, Resolution 3/2002.

⁷ Schrijver, N, 2002, pp. 299-305.

⁸ Stallworthy, M, 2002, p. 1.

two. If it is not sustainable for humanity and the economy, it is not likely to be sustainable for the natural habitat either. Stallworthy distinguishes *Sustainability* from *Sustainable Development*.⁹ He seems to highlight a Utopian goal when at the same time predicting a certain end to humanity, whereas I, as noted above, am highlighting the path towards the goal. He seems to approach it from a scientific point of view, and I approach it from a qualitative point of view. We may argue over the correct approach, but the discourse adopted by the UN towards Sustainability gives rise to a legal concept that may increase the likelihood of businesses adapting towards sustainable behaviour through reducing the difference between the organisations and their environment. It may, but it is not certain. The principle can be characterised as soft law that neither has to be implemented nor enforced. It is a social process rather than a scientific truth. At the same time, a former judge of the International Court of Justice C Weeramantry considers it to be as hard as any law.¹⁰

Regardless of what one wants to include in Sustainable Development the problem is not in understanding that businesses should behave differently. The problem is how to make it in the interest of businesses to become sustainable. Business organisations, I argue, should be seen as part of the solution, not the problem. It is also clear that the law alone cannot guide businesses in the desired direction. In order to solve problems within society, we need something more than just legislation. If changing the law were sufficient, environmental or social problems, in relation to businesses, would not exist. The law may have an effect on how businesses behave, but it is a difficult task for the legislator to force businesses into behaving in a certain way. This is obviously not a unique

⁹ Stallworthy, M, 2002, p. 1.

¹⁰ Weeramantry, G, 2004, p. ix.

proposition. Nevertheless, there are authors such as Teubner,¹¹ and Paterson,¹² arguing that law has a role to play in guiding society.

Businesses should have the desire and competence to take social and ecological problems into consideration. If business organisations are not capable of behaving in a desired way, changing the law is not the perfect solution. This does obviously not mean law lacks purpose, on the contrary, law is needed but to use it just as a means of steering may prove to be difficult. The debate around the purpose of the law may have more of an impact on the behaviour of businesses than the actual law in itself. When businesses understand and accept the principle it can be introduced successfully. Law can increase or decrease the likelihood of something happening, but we cannot know exactly what will actually happen.¹³

The principle of Sustainable Development implies it would be possible to thrive applying the principle and finding a balance between environmental, social and economic issues. Is it in reality possible for business organisations to thrive while at the same time fulfilling the criteria of Sustainability? What role do NGOs with their roots in social movements play when it comes to making society aware of environmental and social problems? As indicated above, if there is no desire within the environment of business organisations in relation to sustainable measures nothing is likely to change. Lack of communication between NGOs and businesses is highlighted in a recent interview between Stora Enso's CEO Jouko Karvinen and Greenpeace activist Sini Harkki. The awareness of a problem resulted in an agreement between Stora Enso and Greenpeace that meant some old forests in northern Finland were saved.¹⁴ In this case Greenpeace was the initiator. There is, however, also the view expressed by Helm, "many people in the green

¹¹ Teubner, G, 1982-1983, pp. 239-285.

¹² Paterson, J, 2006, pp. 13-35.

¹³ Paterson, J, 2006, p. 35.

¹⁴ Stora Enso, <http://www.youtube.com/watch?v=9jck09BQuyU>, 15.1.2013.

movement believe that even talking to companies is a sin, especially if those companies are not in renewables business”.¹⁵ There are, however, corresponding thoughts among businesses.¹⁶

What kind of theoretical knowledge gaps are there to be filled when it comes to the natural environment and society? Teubner asks the question “how do enterprises react to environmental law?”¹⁷ This is a relevant question, but it leaves social issues outside the observation. How do we know what to look for? Reviewing Philippopoulos-Mihalopoulos’s “*Absent Environments*”,¹⁸ Jane Holder refers to her own experience and the difficulties in defining what we actually mean with environments and environmental law.¹⁹ Does environmental law cover what it is supposed to cover, whatever that is? The UN may have created Sustainable Development Law unintentionally when the industrialised world tried to embrace the developing world in order to protect the natural habitat. In that process the natural habitat, social issues and the economy were

¹⁵ Helm, D, 2012, location 122.

¹⁶ Wahlroos, B, 2012, (my translation), p123. Criticising groups that use the AGM to complain about the company and the industry the chairman of UPM, one of the business organisations I studied concludes: “The boards were forced to spend several hours (for them) for a meaningless debate on everything from social responsibility to environmental issues, whereas the stipulated issues for the AGM were considered more or less of no interest and rarely reported by the press”. It is difficult to comprehend the discrepancy between this quote and a company that has implemented Sustainability into its business model. It must be kept in mind though that in the Nordic countries the chairman is normally a non-executive director that can be distant from the daily operations of the company. At the same time, I would propose that businesses most of the times are good at abiding the law but less so when it comes to understanding social movements.

¹⁷ Teubner, G, Farmer, L, & Murphy, D, ed., 1994, p. 5.

¹⁸ Philippopoulos-Mihalopoulos, A, 2007.

¹⁹ Holder, J, 2008, pp. 496-499.

brought together. This insight may not initially have been there. However, there was now a new, holistic way of observing society. The natural environment could not be protected exclusively, people and the economy had to be taken into account as well. Another aspect of this tripartite approach is that we cannot observe based on just one centrality. We have to find a way to deal with a multiplicity of simultaneous centralities. In fact, it is not a question of centrality but of a-centrality. I discuss a-centrality further in chapter 4.4 p. 84.

From a systems theoretical point of view there was a new way of observing the environment of the system - an environment that included ecological, social and economic issues. Traditional organisation theory seldom takes ecological problems into account - and when it does it tends to concentrate on just the ecology being eco-centric to its character. As a consequence of ecological ignorance, problems can be ignored if they do not fit the decision-making process.²⁰ In effect, this means businesses can ignore ecological issues if they are not against the law. You can also query whether they are capable of dealing with them.²¹ Luhmann advocates an organisation theory that takes ecology into account in a better way than classical problem-solving theories.²² He suggests this could be done through observing how ecological problems are dealt with.²³ Presumably this can include social problems as well. It may well be the case that they are intertwined in any case. Luhmann,²⁴ in *Ecological Communication*²⁵ shows that ecological problems can only be dealt with through social function systems like law, education and politics. His non-normative approach, however, has made his thoughts difficult for everybody to accept. This can be seen in the views presented by Mathur,²⁶ where the lack of an ethical base is criticised. Luhmann saw ethics and morality as

²⁰ Luhmann, N, 1998(a), p. 107.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Luhmann, N, 1989, p. 36.

²⁶ Mathur, P, 2009, pp. 329-362.

something dividing society into what is good and what is bad.²⁷ He did not like this division. My ethical base can be seen as Sustainability. I have, however, knowingly excluded ethical considerations from this work. Ethical considerations by the organisations studied are all internal constructions. The ethics of the organisations is to make moral judgements.²⁸ Morality again is paradoxical²⁹ and in this case modified as a consequence of irritation or structural coupling.³⁰ What is sustainable is not carved in stone. It is changing all the time through evolvement meaning that what is right and wrong changes constantly. I use the word evolvement instead of evolution. In principle, they mean the same. Personally I associate evolution with Darwinism and biology, whereas I associate evolvement with sociology.

I am aiming at a socio-legal theory that integrates all three pillars and the legal principle of Sustainable Development in an organisational environment. The problem with theories focusing on one aspect is that they tend to neglect other aspects. I see society as a-centric meaning social systems are not functioning around one centre. Eco-centric theories that will be discussed in chapter 4.4 p. 84 are an example of this. Here is, however, a paradox in that as hinted above, centricity and a-centricity need to be accommodated simultaneously. That is why Sustainability based on just science or biology does not work. Sustainable Development can incorporate ecological issues into the organisation theory of social systems. There seems to be a theoretical gap to be filled. My research question is based on Teubner's question referred to above on p. 5 and Luhmann's request for an organisation theory that takes ecology into account. I added the economy and social issues to this. I ask,

²⁷ Luhmann, N, et al. 1995(b), p. 35.

²⁸ Luhmann, N, 1989, p. 140.

²⁹ Ibid.

³⁰ Irritation and structural coupling are discussed in chapter 4.1.

how business organisations react to Sustainability and what factors do they take into consideration when deciding on Sustainability?³¹

Firestein³² brings forward that it is not the correct answer that is interesting when it comes to science; it is the question. It may be that protecting the environment alone is not the best way of achieving the best outcome for the environment. This may sound facetious, but does traditional environmental protection not exclude society? Can environmental protection that does not take society into consideration succeed? From a systems theoretical point of view, the natural environment is not part of society at all - so what is environmental protection from a social point of view? The natural habitat is absent from society yet at the same time it ought to be included somehow because even if the natural environment and society exclude each other they are nevertheless dependent on each other. From a social systems aspect based on communication, environmental problems become part of society through communication. Luhmann brings forward the following example: "Dead fish are floating in the Rhine".³³ It is not the dead fish that is interesting but which of the communicative sub-systems communicate about this and how it is done.³⁴ Theories based on centrality alone have a problem dealing with several systems such as organisations simultaneously. Approaches acknowledging a-centrality may be better equipped to deal with the complexity of Sustainability.

Modern protest movements protest at the centre of function systems such as the political system.³⁵ Environmental and social NGOs, however, do not focus just on the centre of function systems. They focus on the outskirts of their targets, meaning in this instance business organisations, in order to force them to change their behaviour. For example, publishers are persuaded to change their behaviour in relation to printing paper so

³¹ Social systems do not react but organisations having the capability of communicating can react.

³² Firestein, S, 2012, p. 9.

³³ Luhmann, N, 2006(a), pp. 54-55.

³⁴ Ibid. pp. 54-55.

³⁵ Luhmann, N, 1998(b), p. 853.

that they require their producers of paper to trace their raw material. This way the producers of paper have to know the origin of their raw material and the way it has been processed in order to sell their produce. Luhmann saw protest movements as social movements, and he even suggested social movements could become its own type of systems.³⁶ He has been heavily criticised for the view that protests are ends in themselves. This is commented on in chapter 4.3 p. 72 and 10 p. 236. My view is that social movements, and here I am especially thinking of NGOs, are there in order to make society aware of problems. They may even create standards such as the FSC (Forest Stewardship Council), but they are not there to solve problems and implement solutions. This criticism of Luhmann reminds me of Orwell's³⁷ "Animal Farm" where the animals took over from humans. It did not take long before the new masters became as bad if not worse than their predecessors.

It may well be the case that, for business organisations, Sustainability could be nothing more than a way to manage their physical and social assets in a sound economical way. This could mean a non-normative way of solving environmental and social problems or a non-normative solution of following a normative principle. If Sustainability would mean that protecting the environment and supporting social issues could increase profits rather than add cost, all pillars of Sustainability would gain. This thesis shows that the businesses studied have managed to incorporate Sustainability into their business models in a way that aims to balancing the three pillars of Sustainability while at the same time looking for – but not necessarily achieving - profit. In fact, there seems to be a paradox here. Businesses can only become and remain sustainable by being profitable. Profit and Sustainable Development must go hand in hand. The way businesses can become sustainable is through awareness of their environments expectations and the economic system, in this case the market economy. The way centrality is dealt with is to allow all systems to centre on the only centre they are capable of, i.e. the system

³⁶ Moeller, 2006, p. 32.

³⁷ Orwell, G, 2008.

itself. Through allowing this plurality, we acknowledge Sustainable Development is a-centric.

2. Setting the Scene

2.1. The Purpose of the Study and the Research Question

I am interested in exploring how businesses that claim to be sustainable have implemented the principle of Sustainable Development. I am also interested in the role that the NGOs play in implementing Sustainable Development as a legal principle. Can they in effect be seen as law enforcers? Therefore, two NGOs (Greenpeace and WWF) that seemingly have tried to irritate the businesses to be studied are included in this study. Especially if Sustainable Development is nothing more for businesses than to manage their physical and social resources, then external irritation may be the only way to extend Sustainability beyond what can be seen as a simple calculation of algebra.

NGOs can be divided into two groups. The first consists of traditional organisations such as Greenpeace and WWF. These two are mainly concerned with the natural habitat. Other NGOs in the same group like Oxfam are mainly concerned with social issues but also to a degree with environmental issues in developing countries. The second group of NGOs upholds voluntary schemes such as GRI (the Global Reporting Initiative), FSC (the Forest Stewardship Council), and PEFC (Programme for the Endorsement of Forest Certification Schemes). They are, however, not just upholders of voluntary schemes but also the ones who in a sense legislate, in that business organisations subscribe to their rules of behaviour.

My research questions are, - how do business organisations react to Sustainability and what factors do they take into consideration when deciding on Sustainability? The questions focus on the three different perspectives of Sustainability; (ecological) environmental, social and economic Sustainability covering both external and internal factors in relation to the decisions. What is sought is what sort of decision premises lie behind their decisions and how the decision premises change. This relates closely to Luhmann's theory mentioned above and has affected

the research design accordingly. The study does not relate to the behaviour of employees or other issues that include human beings even though people are interviewed. The question of how NGOs behave in relation to Sustainability is also of interest. Are they becoming more business-like? They have their mission to perform but in order to do that they have to raise money. Could it, in fact, be claimed that they are business organisations in their own right?

Below I introduce some expressions used in Luhmann's theory of social systems. Reality can only be observed as second-order observations,³⁸ and poly-contexturally.³⁹ This means that when several systems are studied, what is observed will be based on the cognition of the individual systems. There is not one reality but several realities – one for each system. When I as the author observe systems I observe systems observing other systems. Their first order observations become my second order observation. At the same time, their first order observation is a second order observation based on someone else's observation. This way, their second-order observations become my first-order observations. When someone else is observing me observing, my first order observation becomes his second order observation. Unfortunately, I cannot exclude myself from the observations. I will always be a part of the observation. Only if I could use exactly the same distinction as the observer I observe, I would be excluded and in this case I could not see the blind spot of the observer I observe. On the other hand, as will be discussed later in chapter 4.5 p. 90, I, as an observer, and the observation will become identical. Luhmann⁴¹ puts organisation theory at the level of third order observation. This theory is about observing a system observing itself.

The purpose of the thesis is to show that the behaviour of business organisations may change when their environment requires it. In order

³⁸ Luhmann, N, 2013, p. 100.

³⁹ Luhmann, N, 2012, pp. 13, 46.

⁴¹ Luhmann, N, 2005 (a), p. 56.

to prove this proposition, I have been studying the behaviour of businesses that claim to be sustainable. The study is based on a set of data covering a period of around ten years, demonstrating how Sustainable Development has evolved within the studied organisations, i.e. the evolvement towards Sustainability. It is a question of evolvement based on decisions made, not a sudden shift when businesses become sustainable from one day to another. The meaning of Sustainability for the businesses in question may change from time to time and Sustainability cannot, therefore, be a static phenomenon. At the same time, the interpretation of Sustainability changes in other organisations such as NGOs. The thesis aims towards a theory integrating economic, ecological and social issues into organisation theory when at the same time considering Sustainability to be a legal principle.

My proposition is that the way Sustainability evolves is highly event-driven and that the outcome depends both on what is happening in the environment of the system and the system's internal operations. It is not about a static system being something but about a system becoming something. At the same time, the system could always have decided differently, and as a consequence it could have become something different. Conceptually I move around a legal and organisational framework. Luhmann took his theory towards a theory of distinction, based on observations. The observation ended up being more important than the observer. An "observation is nothing but making a distinction to indicate one side and not the other".⁴² This is something I discuss in chapter 4.5 p. 90. Kuhn's *The Structure of Scientific Revolution*,⁴³ brought forward that new theories were not there to replace previous ones but that they were there because of a change in worldview.⁴⁴ Likewise, a new distinction or observation brings forward a new worldview. This makes the observation crucial to any propositions made. The literature review

⁴² Luhmann, N, 2002, p. 105.

⁴³ Kuhn, T, 2012.

around the different subject matters is discussed in conjunction with the specific concepts.

2.2. The Character of the Study

The use of the term sample in relation to qualitative or inductive research can be questioned. The aim of statistical exactness of quantitative studies cannot be achieved,⁴⁵ and neither is it needed nor is it looked for. “Right” choices, however, have to be made.⁴⁷ It is a multiple case study and I looked for a small number of businesses to study in relation to Sustainability. The pattern of how the businesses evolve is of interest. In qualitative research, typical cases can be chosen,⁴⁸ or a “purposeful selection” can be made.⁴⁹ In this case, the typical one is a business that at least on the surface wants to appear sustainable. I looked for differences within a sample that at the outset looks very similar. Three of the largest pulp and paper companies in the Nordic countries fulfil this criterion. They have their base in Finland and Sweden but also operate in emerging countries. This is interesting especially when it comes to exploring decisions in the social domain but also when it comes to the natural environment. Tree plantations can have both social and environmental consequences. The land has to be bought or leased, and this could mean people have to move. Methods for implementing Sustainable Development in the Nordics could be highly different from the same in an emerging country. Legal space is interesting both when it comes to Sustainability and to the businesses in question. Do the same rules apply in emerging countries as in the Nordics? All three are global actors and their geographical spread was likely to be relevant to the study. The

⁴⁴ Hacking, I, 2012, p. 115.

⁴⁵ Maxwell, J, 2005 p. 88.

⁴⁷ Flick, U, ed., 2010, p. 25.

⁴⁸ Ibid. 2010, p. 27.

⁴⁹ Maxwell, J, 2005, p. 88.

principle of Sustainable Development is universal but does this result in similar legislation in every country?

The study is based on material present on the Internet, with the company websites being the main source of information, and on interviews. The purpose of the interviews is partially to function as a method of triangulation and partly to obtain new information and insights not present in the reports. This was relevant especially when I looked at possible reasons for certain behaviour. The publicly available material compiled by the organisations, described what has been done during the year in relation to Sustainability of the business. It is a statement reflecting the perception of the authors in relation to the year that passed. It is the second-order observation of the author or authors. The advantage of publicly available material is that it is accessible, time saving and that the authors usually have considered what they include in the material.⁵⁰ On the other hand, the material may be biased and not conclusive. There could also be an overflow of data. In addition to the three companies, WWF and Greenpeace were interviewed. There was publicly available material regarding Greenpeace and their actions aimed at all the three pulp and paper companies. Acquiring permission to interview the business organisations did not turn out to be a problem. The interviews were conducted in Swedish and in Finnish depending on the interviewee's mother tongue. One interview per company was conducted.

The Nordic pulp and paper industries give an impression of being sustainable organisations. My intention in this work was not to study businesses with a poor reputation and see what they have done. The intention was to investigate what businesses that claim to be sustainable have done. In this way, it was a "purposeful selection". It has to be pointed out that all of the companies have made mistakes especially when going to the emerging markets. At no instance will I suggest that they no longer have space for improvements. The three chosen

⁵⁰ Creswell, J, 2009, p. 180.

businesses as mentioned above are the largest listed pulp and paper companies in Finland and Sweden. SCA (SCA Svenska Cellulosa Aktiebolaget) (sales 10.466 billion € in 2009) is Swedish, UPM (United Paper Mills) (sales 7.717 billion €, in 2009) Finnish and Stora-Enso (sales 8.945 billion € in 2009) the result of the merger between the Swedish company Stora Kopparberg and a Finnish company Enso Gutzeit.⁵³ All of them have a history of claiming to be Sustainable. All of them are publicly listed companies on the Helsinki and/or Stockholm Stock Exchange.

A structured step-by-step approach⁵⁴ to the analysis of the material was carried out reflecting the distinctions mentioned below on page 18 and presented further in chapter 5.2 p. 125. These distinctions look for a structural, processual, rational and functional understanding of the business organisations studied. The steps included organising the material, reading through the material, coding the data, arranging it in themes and descriptions and drawing conclusions. I have looked for the blind spots in relation to the environment, social issues and the economy. In order to build up a picture of how Sustainability has evolved among the studied businesses, a set of data that covers around ten years was chosen. Flick mentions two basic distinctions in a qualitative study, cross-sectional or longitudinal, and case studies or comparative studies.⁵⁶ Longitudinal studies cover a number of empirical data sampled over a period of time, whereas a cross-sectional is based on observations at a single point in time. Real longitudinal studies are rare.⁵⁷ In this case, the longitudinal is replaced by retrospect. The study is retrospective in the sense that it begins with the earliest year available and then moves towards the present. The study covers a number of years based on material produced in or just after the end of each year. This means there is authentic material on which to build. Each year represents snapshots of the communication in the form of decisions during a specific year. The

⁵³ SCA, Annual Report 2009; UPM, Annual Report 2009; Stora Enso, Annual Report 2009.

⁵⁴ Creswell, J, 2009, pp. 185-190.

⁵⁶ Flick, U, ed., 2010, p. 45.

⁵⁷ Ibid. p. 45.

interviews were conducted after the last report was written and do not provide authentic *retrospective* material produced in the years covered.

In relation to the question of case studies and comparative studies, we have a combination carried out as a multiple-case study. We have three case studies that are compared. The comparisons relate not to the studied businesses in their entirety but specific issues picked up during the study.⁵⁸ The previous year is always the starting point in comparing one year to another. One interesting point here is present outside the initial issue of Sustainability and that is the distinction Organisational Differentiation. This may or may not be a result of Sustainable Development but it nevertheless shows in what direction the businesses have moved. The principle of Sustainable Development is something aiming at pointing businesses in the same direction; the differentiation may be something pointing them in different directions. This was also one of the conclusions. The businesses became similar but not identical when it comes to Sustainable Development and different when it comes to Organisational Differentiation. I will discuss Organisational Differentiation in chapter 5 p. 113 and 8 p. 200.

A case study is not about looking for causality or analysing a case. It is a method of defining cases.⁵⁹ Case studies are applicable when the research question is a “how” or “why” question.⁶⁰ In this study we have a “how” question in terms of what decisions have been made and the differentiation of the organisations and a “why” question in relation to the rationale or motive behind a certain behaviour. The starting point for Luhmannian organisation theory is to study how businesses behave. *How*, in this case, means what organisations communicate and when. We are not looking at how people behave but rather on how the organisation behaves as a social system. Saldana use “influences and affects,”⁶¹ rather

⁵⁸ Flick, U, 2009, p. 135.

⁵⁹ Gerring, J, 2004, p. 341.

⁶⁰ Yin, R, 1994, p. 1.

⁶¹ Saldana, J, 2003, p. 82.

than cause and effect. Influences and affects he concludes are more processual. This is in line with Luhmann's thinking.

Åkerstrøm Andersen concludes, "systems theory is no more than a programme for the observation of observations and their blind spots" and Luhmann's theory "serves merely as programme for the observation, *and how* organisations emerge, through observations".⁶³ Second order observation gives the observer the possibility through the distinction made, to see what the observed cannot see. The distinction, i.e. the same that makes the observation possible in the first place, is used as the blind spot.⁶⁴ In this thesis the focus of observation is on decisions. Decisions are paradoxical in the sense that only un-decidable decisions can be decided, decisions are always reached retrospectively, and that decisions are in themselves decisions. This resulted in a number of distinctions that are discussed further in chapter 5.2 p. 125. The first distinction was uncertainty absorption/decision, the second decision premises/decision, the third motivation/decision and the fourth, Organisational Differentiation/decision. The first and the second formed the base for the interviews.

The starting point of the interviews was the conclusions based on my second-order observations of the observed material. The areas of interest related to the environment, social issues and the economy. Spatiality was also of interest. The businesses have operations in developing countries, which made it interesting to see what decisions they had made in relation to those areas. The interviews were open-ended and they were recorded. The purpose of the interviews, as mentioned above, was triangulation,⁶⁸ but also to acquire insight into the motivation for the decisions taken. Before any interviews were conducted the approval of the research ethics committee were sought for and approved. The interviewees were informed about the character of the interview and they had the opportunity to decline or stop the interview at any time.

⁶³ Åkerstrøm Andersen, N, 2003(a), pp. 254-255.

⁶⁴ Luhmann, N, 2005 (d), p. 357.

⁶⁸ Flick, U, ed., 2010, p. 105.

In Luhmann's theory the paradox of decision-making is crucial. The unfolding of the paradox behind the decision-making, however, gives the opportunity to draw conclusions exceeding the state of being merely a description. It also gives the opportunity to ask, "How will the decline of the paradox be stopped"? ⁷⁰ In other words what keeps the paradox afloat? It attempts to show that organisations can move in a more sustainable direction based on the systems' own operations. In fact, this is the only way to achieve it and at the same time this is how centrality and a-centrality can be present simultaneously. Likewise this offers unlimited plurality. This means environmental NGOs can still promote their own branch of environmentalism and social NGOs their branch of social issues. Businesses may still pursue their business based on the prerequisite of making a profit. The decision premises of the business, however, may change. Sustainability is not a static phenomenon. It has kept on evolving before and since the Rio Declarations and is likely to do so in the future.

The intention of the study has been to show how Sustainability has evolved among a small number of companies within the Nordic pulp and paper industry. The companies were involved in promoting Sustainability early on and hence there is material available in the public domain regarding what kind of decisions they have made in relation to Sustainable Development. The fact that the produce of the companies is based on natural products is also of interest. The outcome can be criticised for just being a historical account of what happened. However, this does not mean a number of conclusions cannot be drawn. At the same time, it is clear that "empirical findings are self-produced facts",⁷¹ meaning the results are a construction of the observer.

⁷⁰ Luhmann, N, 2006 (b), p. 145, (my translation).

⁷¹ Vos, J-P, 2005, p. 385.

2.3. A Personal Background to the Study

In conducting qualitative research, what lies behind the research questions is of interest. In my previous research,⁷³ I studied what I called law making within the United Nations Economic and Social Council. I discovered that the work done within the UN was not just an affair between Member States but that the impact of NGOs was immense. It is evident that when it comes to voting, the power lies with Member States, but when it comes to discussing and debating issues, NGOs representing society at large, have a great deal to say. Not only can they discuss what is being debated but they can also make an input when it comes to decide what is on the agenda. They often master the specialist knowledge Member States lack and this gives them influence. This made me aware of the importance of NGOs and especially environmental and social NGOs. It is important not to forget that businesses are represented in the UN through their organisations as well.

I believe one problem, in the past at least, when it comes to environmental and social issues, has been that businesses and NGOs have seen each other as antagonists and it may be the case that they are. At the same time, communication between them may result in a better outcome not only for one of the parties but also for the other. A dialogue would bring out the expertise of both parties to a greater extent. What is interesting is that antagonism could - regardless of what the immediate success is - result in an acknowledgement or at least the awareness that something is wrong. Whether this acknowledgement is accepted and results in any change in the decision-making by the businesses is a different issue but at least the likelihood for change could increase, and if nothing else, the awareness is there.

Even if the extent of the work of NGOs within the UN was new to me I had previously realised that they attempt to make businesses aware of environmental issues. What had caught my eye was their interest in the

⁷³ Rettig, H, 2008.

Nordic pulp and paper-industries and the preservation of old forests. This was entirely as a layperson. I have an industrial background but my contact with the industry is merely based on consumer experience. In addition to what I said in the introduction, pp. 8-9, the involvement of NGOs in defining Sustainability through the Rio Declarations, and their perceived involvement in attempting to change the behaviour of businesses in a more sustainable direction, can be said to be the foundation for my research questions - how do business organisations react to Sustainability and what factors do they take into consideration when deciding on Sustainability?

I think that as a legal principle and regardless of what the Rio documents say the observer will always determine the meaning of Sustainability. This obviously concerns myself as well as anybody else. I do not have the background of an environmentalist nor the one of a social activist. My industrial background perhaps makes me somewhat biased in favour of businesses. On the other hand, I may have a less biased relation towards the other two pillars of Sustainability. I am knowingly somewhat ambiguous regarding the observer and the observation. I am the observer but the observation is not necessarily my own. On the contrary, empirically it will be based on someone else's observation.

Different businesses adapt to new requirements at different points in time. Businesses develop their own version of Sustainability even though they are likely to observe what their competitors are doing. What seems to be clear is that the principle of Sustainability looks different at different times. It also looks different in the eyes of different observers. Sustainability is a creation of historic events like the Rio Conference in 1992. Even though the documents are the same, the way businesses interpret them, evolves constantly. It is not just a question of accepting the principle it is about learning how to adjust to it. It may under no circumstances become a question of *laissez faire*. It cannot be a question of an "anything goes"⁷⁵ approach to Sustainability. In the beginning the

⁷⁵ Feyerabend, P, 1993.

solutions in relation to Sustainability may be quite simple. Later on more complexity may be added. This may relate to learning within the studied businesses.

One may ask why I decided on an approach applying Luhmann's systems theory. I could as well have applied New Institutionalism, Organisational Ecology, Stakeholder theory or some other approach closer to traditional organisation theory or one that allows for evolvement. As I have a background in both Law and Organisation Studies and my research deals with how businesses organisations apply the law, I could either have chosen a legal or an organisational approach. Luhmann combines law and organisation in his theory of social systems. His theory is based on distinction. This makes it possible to apply systems theory to legal as well as to organisational aspects. Luhmann's theory of social systems is suitable for observing groups of organisations and how they apply a legal principle over time. Studying Sustainability demands a theoretical framework that can accommodate both the anthropocentrism of social issues, the eco-centrism of environmental issues and the economy-centred requirements of businesses. Luhmann's systems theory and his sources of inspiration seem to be able to accommodate the required plurality of backgrounds. Having conducted research in an international environment, made it clear that my Nordic background did have an effect on the outcome of the study.

Luhmann's theory of social systems is not normative. Sustainable Development is normative in character in that it tells us to find a balance between the environment, social issues and the economy. The way Sustainability is observed, however, does not require normativity. If we know how Sustainability has evolved we may understand some of the sources that have formed Sustainability. Luhmann's theory is a theory of becoming. This makes it suitable to observe in retrospect. Luhmann's organisation theory looks at organisations as decision-making machines. The theory is retrospective and it therefore is suitable when studying decisions over a long period of time. It does not help us in predicting the

future. What it may do, however, is to tell us how an organisation has dealt with its environment in the past and this in itself may be of value.

In discussing the use of Luhmann's theory King brings forward some problems that need to be solved: "(1) The destruction of the environment, (2) economic migration from poor to rich countries, (3) racial and cultural integration and (4) the depletion of energy and water sources".⁷⁶ All of these seem to relate to Sustainable Development in one way or another and none of them has been solved. King used the problems above in order to show that Luhmann's theory cannot be used "as a blueprint for the improvement of social systems".⁷⁷ On the one hand it is easy to agree with this. On the other hand, this thesis shows the studied businesses have been involved in all of the issues highlighted by King and that improvement de facto has taken place in the behaviour of the studied business organisations. The improvements, however, are not a result of attempts to improve social systems but a result of self-steering among the businesses studied where – in terms of Sustainable Development - difference between the organisations and their environment has been reduced. However, at the same time difference has been introduced when it comes to other parts of their environment.

⁷⁶ King, M, 2006(b), p. 51.

⁷⁷ Ibid. p. 52.

3. The Becoming of Sustainable Development

Sustainable Development is a concept that in daily life may result in a number of often ideologically charged definitions. Many of them are normative discourses mainly suggesting that Sustainability is about how society should approach environmental issues based upon the ethics of the discourse in question. It is an ethical concept constantly changing shape. Any suggestions that the variety of discourses could somehow merge I believe are bound to fail. Poly-contextuality and the a-centricity discussed further in chapter 3.2 p. 43 and 4.4 p. 84, explain the difficulty doing this. Autopoietic organisations can only address Sustainability based on their own internal operations and consequently there is a plurality of interpretations. Poly-contextuality therefore means each organisation has its own reality. The concept of Sustainable Development has, however, evolved through a number of UN lead conferences starting in the early seventies continuing to 1992 and thereafter.

What is Sustainable Development Law? Segger and Khalfan find Sustainable Development Law at the intersection of the three pillars of Sustainability, namely International Economic, Social and Environmental Law.⁷⁸ They acknowledge that the overlapping may lead to conflicts between the three pillars but that such conflicts will be solved according to the rules set out in the Vienna Convention on the Law of treaties.⁷⁹ I would argue that whatever the law says, there would always be a balance to be struck between which of the pillars to emphasise, the economic, the social or the environment. In fact, there may be a conflict between the principle of Sustainable Development and treaty law as well as between customary law and the principle. This balance will change from time to time to reflect the reality of the day. At the same time, I would argue the principles for this are to be found in the UN Declarations on Sustainable Development. Even if the Vienna Convention is there to solve problems, the likelihood that a court would be involved at all is slim even if it will

⁷⁸ Segger, M-C, and Khalfan, A, 2004, p. 51.

⁷⁹ Ibid.

happen from time to time. I would argue that Sustainable Development is more a question of direction than a set of static rules. Sustainable Development could even be seen as a passion in a similar way as Luhmann developed the concept of Love.⁸⁰

Authors like Bosselmann criticise this view (the ambiguity and lack of strictness), arguing that the process within the UN has diluted the true meaning of Sustainability. Arguing for what he calls strong Sustainability he thinks ecological Sustainability always comes first and that the evidence for this can be found in the Sustainability that was developed in medieval times.⁸¹ Sustainability was then built on agricultural and silvicultural procedures meaning only the fruits and the growth could be harvested. This evolved as a result of the natural disasters experienced in Europe during medieval times when forests were cut down. This rather pessimistic approach could unfortunately result in famine for the human population. The goal is not at odds with Sustainability but the path towards it is not necessarily realistic.

In *Environmental Law and Ecological Responsibility*,⁸² Farmer and Teubner acknowledge the limits of traditional law in relation to the environment. What traditional law means for nature is more about setting limits for how much businesses are allowed to pollute than how to stop pollution. The law is successful in prescribing what is legal and what is illegal. It is not successful in directing businesses. Neither the precautionary principle nor the polluter pays principle seem to have any real effect in cases where the authorities have granted a certain right to pollute. On the other hand Paterson,⁸³ argues there could be a test available for the courts to determine whether the precautionary principle has been violated or not in the form of plausibility and reasonableness. Tests for other principles in relation to Sustainable Development could

⁸⁰ Luhmann, N, 2010.

⁸¹ Bosselmann, K, 2008, p. 40.

⁸² Teubner, G, Farmer, L, and Murphy, D, ed., 1994, pp. 3-6.

⁸³ Paterson, J, 2012, p. 100.

also evolve in relation to the principles covered in the New Delhi declaration I referred to in the introduction p. 2.⁸⁴

Whether as a consequence we have a legal principle in relation to Sustainable Development or something approaching the status of such a principle or not, does not necessarily matter. There is a framework of rules emerging through the work of non-state actors that promote similar but not necessarily the same, sustainable issues as the ones promoted by Member States of the UN. Whether society, as social movements will carry on the legal work outside the law where Member States fail - as I think Teubner argues in *Global Bukowina*⁸⁵ - or not, this thesis shows examples of voluntary subscription to rules, created by non-state actors, and compliance with irritation in their environment out of fear for what could happen otherwise. There is no need for any official recognition of non-state actors in order for them to have a role to play when it comes to Sustainable Development. I do not think Teubner's reference to the *Global Bukowina* is at odds with Luhmann's thoughts around the evolution of law. The distinction legal/illegal has to be present and there needs to be a programme but I do not think a state is needed for this.⁸⁶ Non-state actors are interpreting Sustainable Development in their own ways, as are Member States of the UN. Whether the code would still be legal/illegal or just/unjust or something else as discussed in chapter 3.2 p. 41, is another issue.

Law can decide what is legal/illegal but when we move outside this distinction the legal system cannot decide.⁸⁷ This is obviously a problem when introducing NGOs to the equation. One answer could be that their role is not to determine what is legal and what is not. When it comes to The Forest Stewardship Council and similar NGOs the relationship is contractual and there is therefore a legal dimension. When it is just about

⁸⁴ International Law Association, *New Delhi Declaration of Principles of Principles of International Law Relating to Sustainability*, Resolution 3/2002.

⁸⁵ Teubner, G, 1997, pp. 3-28.

⁸⁶ Luhmann, N, 2004, pp. 173-210.

⁸⁷ Philippopoulos-Mihalopoulos, A, 2012, p. 73.

awareness it is for the legislator to legislate in accordance with expectations of society. This way, whether another code than legal/illegal is needed becomes hypothetical.

My aim is to highlight the difficulties in establishing a meaning or meanings in legal terms for what Sustainable Development is, and what it could perhaps become. I say meanings because it may be too early to find a firm definition on what Sustainable Development really is in legal terms. It is a concept that is evolving, and even if we have a number of UN documents defining it, those documents are too vague and too contradictory to draw a firm conclusion. This can be seen as negative in that if there are several interpretations available, it may result in a situation where different parties all claim they are sustainable, but based on different premises. At the same time, it can be claimed that as long as we are not talking about firm law that has passed the legislature of the Member States of the UN, it is better to have Sustainable Development that reflects the interpretation of those involved, than not to have any at all – better for the environment, better for people and better for the economy. In fact, this may be the path that eventually leads businesses and NGOs alike to more sustainable behaviour. If this is the case, then the ambiguity or vagueness of the concept can be seen as strength rather than a weakness. Businesses in general try to abide by the law but the law just gives us a minimum standard, whereas the principle of Sustainable Development may serve as an ethical ground for businesses, let it be that it will be interpreted in a more or less stringent way from an environmental or a social perspective.

As discussed below, the role of both businesses and NGOs in implementing Sustainable Development is important. It is argued that the enforcement of Sustainability is difficult if businesses themselves through self-steering do not take the lead and choose to become sustainable. This can only be done based on the businesses' internal structure. The research highlights the difficult position businesses find themselves in, in relation to Sustainability, and the difficulty in enforcing Sustainability

through conventional, legal methods. With conventional, legal methods I mean the court system. Instead of strict laws, other incentives and structures are needed. The way in which the Rio Declarations were born may well stand as a model for how Sustainability can be implemented. It is argued that NGOs may play an important role in this process.

Farmer and Teubner ask the question “How do enterprises react to environmental law”?⁸⁸ The question could be rephrased; what do businesses take into consideration when deciding on how to address issues in relation to environmental law or my research question, i.e. how do business organisations react to Sustainability and what factors do they take into consideration when deciding on Sustainability? One answer to the latter question could be that they take into consideration what they believe is in their interest, whatever that is. What they believe is in their interest would be based on their internal operations. Are we thinking of their short term interest or could it relate to the survival of the business in the long run? Most businesses do not survive more than one generation, not to mention how few survive more than three generations. The principle of Sustainability again should be able to cover the effect of decisions made today for generations to come. At the same time, it is obvious that in order to survive in the long run, businesses have to survive in the short term as well. This is an attitude that can be seen among privately held family companies. Here short-term gains are not paramount.

Farmer and Teubner see self-organising as a solution to environmental problems. They argue that the solutions have to come from inside the organisation rather than from the outside, but as a result of cooperation between businesses and political institutions.⁸⁹ NGOs may well be added here. I do not think this is at odds with Luhmann’s thinking as will be discussed in chapter 4.3 p. 84, the reason being that from both the NGO’s and the business organisation’s point of view it is about self-steering not

⁸⁸ Teubner, G, Farmer, L, and Murphy, D, ed., 1994, p. 5.

⁸⁹ Ibid. pp. 4-5.

steering. Industry-based norms and NGOs may play a major role in substituting the role of courts. Industry-based norms can be agreed within the industry in question and by regulators while NGOs may monitor the behaviour of businesses. There is the obvious risk of too close a relationship between the industry and the regulator. The oil industry was heavily criticised by president Obama, in conjunction with the Mexican Gulf oil catastrophe, for having “too cosy” a relationship with the regulators.⁹⁰

The question above could, however, also be modified to be asked in relation to NGOs, how do environmental and social NGOs react to Sustainable Development? The question can be asked not only regarding Sustainable Development Law but also regarding the principle of Sustainability. Whether the role taken by NGOs is the one of the observer or an enforcer does not necessarily matter. Any statement by NGOs may have an effect on the behaviour of businesses. Rephrased the question would be; what do environmental and social NGOs take into account when deciding on Sustainability? The character of the NGO is likely to play a role. An environmental NGO is likely to emphasise environmental matters, whereas a social NGO would emphasise social issues. What is important is that whether we are observing social or environmental NGOs or businesses they can only react based on their internal operations. This means a social NGO will emphasise social issues, an environmental NGO will emphasise environmental issues and a business will have profitability as the starting point. This reasoning shows that whatever the organisations do, they can address the issue of Sustainability and by doing so they will do it based on their internal operations. An environmental NGO cannot expect a business to react to the issue in the same way as it would itself and vice versa.

The Rio-documents are more anthropocentric than eco-centric in character. Is this a problem or could it even be an opportunity? Is it a question of a-centricity or should I perhaps call it polycentric instead?

⁹⁰ *Financial Times*, 15.05.2010.

There is a deeper discussion in relation to a-centricity in chapter 4.4 p. 84. What is clear is that different NGOs have different aspirations. Social NGOs put human beings at the centre, whereas environmental NGOs clearly put the environment at the centre. The Rio-documents clearly refer to both anthropocentric and eco-centric issues. The spatial broadness as a global concept, and to some extent the lack of borders and the use or misuse of borders through different ways of implementing Sustainability in different countries, adds complexity. There is always the risk of businesses moving an environmental or social problem from one country to another.

Luhmann's theory of social systems lacks space – on the one hand this is a challenge. On the other hand, the natural environment is not a part of the social systems either. In his book *Ecological Communication*,⁹¹ Luhmann argued that ecological communication could only be communicated through the different function systems. In the same way organisations are only able to communicate issues in relation to Sustainability based on their own decision premises. This means Sustainability communicated by different kinds of NGOs and businesses is likely to look somewhat different. As concluded in chapter 1 p. 8, the issue of space needs to be addressed through the different sub-systems of society. As discussed in chapter 8 p. 201, Stichweh's solution to the problem is that there is a structural coupling between space and society.

The issue is not that businesses lack the will to reduce pollution. Most businesses would declare they abide by the law. The problem arises when businesses in effect are given the right to pollute to a certain extent. From a legal point of view this would obviously not be pollution at all but from a scientific point of view it would. Anything within the given limits will be seen by the polluter not to constitute pollution. In legal terms this is obviously correct. In practical terms, however, the result may be detrimental to the environment. It may, however, be detrimental to the

⁹¹ Luhmann, N, 1989, p. 36.

polluter as well in the sense that non-sustainable working methods eventually may result in a less competitive company. The EU Emissions Trading Scheme may stand as an example of how businesses can avoid creating sustainable working methods. In effect, the scheme gives the right to emit more than the law would permit from the outset. This way, businesses can avoid restrictions by paying money and “be pardoned for their sins”. The objective is obviously to minimise emissions globally but the scheme has been heavily criticised by Friends of The Earth for not working.⁹² By transferring production to less developed countries, businesses could sell their emission rights, and at the same time continue emitting as before. Only globally enforceable laws could stop pollution.

What is more important, enforcing the law or enforcing the principle of Sustainability - the idea of finding a balance between environmental, and social and economic issues? In this instance, I would argue the principle is more important. The law only sets minimum standards and pursuing Sustainability cases in court may prove difficult. It is the public debate and the perception this results in that could have more impact on the behaviour of businesses than the threat of a lawsuit. The principle allows for the implementation of the principle to evolve in the Luhmannian proposition in order to stabilise “normative expectations over time”.⁹³ The issue of balance between the three pillars is important, and at the same time, the hardest issue to resolve. This may, however, be what keeps Sustainability evolving. There will be no final solution and this will always create uncertainty that needs to be addressed, thus keeping the issue evolving. There always needs to be disagreement in order for the implementation to evolve.

How do environmental NGOs react to the behaviour of social NGOs and vice versa? For businesses, long-term survival could be one plausible motive for decisions in terms of Sustainability. A plausible motive for

⁹² Clifton, S S-J, 2012.

http://www.foe.co.uk/resource/reports/dangerous_obsession.pdf,
21.10.2012

⁹³ Paterson, J, 2006, p. 18.

environmental NGOs is to keep environmental issues alive, for social NGOs to keep social issues on the agenda. There is to an extent an inherent conflict of interest in relation to Sustainability where a balance between the three pillars of Sustainability should be struck. As long as it is a question of NGOs on one side highlighting environmental and social issues pushing businesses to take those into account on the other, then society at large is likely to move in a more sustainable direction. This can be seen as a force of enforcement. To extend it towards enforcement in traditional legal terms would probably be difficult. This obviously does not mean that environmental or social laws cannot be made stricter. NGOs are not emanations of the state and they serve a different constituency. Their lack of accountability to others than their members may be a problem but at the same time their expertise may push businesses towards more sustainable behaviour.⁹⁴

CSR (Corporate Social Responsibility) and Sustainable Development overlap; Therefore CSR demands a brief introduction. CSR is about businesses' contribution to society,⁹⁵ whereas Sustainable Development is based on decisions made by the UN and is legal in its character. Garriga and Mele define four types of CSR theories: instrumental, political, integrative and ethical.⁹⁶ In instrumental theories the key issue is economics. This can be compared to economic Sustainability in the Rio Documents. Political theories are based on the role of businesses within society, something that can be accommodated within social Sustainability and maybe also ecological Sustainability. Integrative theories highlight the need to acknowledge all stakeholders of society. Stakeholders seem to be an important factor for businesses. Ethical theories again focus on creating a better society. Sustainable Development is mentioned as one of

⁹⁴ Some NGOs subscribe to the International Non-Governmental Organisations accountability charter. This extends the legitimacy of NGOs but it may be too early days to determine whether subscribing to the charter solves the problem of accountability.
<http://www.ingoaccountabilitycharter.org/read-the-charter.php>, 20.12.2007.

⁹⁵ Crane, A, et al, 2009, pp. 3-4.

⁹⁶ Garriga, E, and Mele', D, 2004, pp. 52-53.

the ethical theories. I would suggest it is also instrumental as economics play an important role and political because the UN definition is clearly a result of a political process.

Sustainability can also be contrasted with theories studying the relationship between the business organisation and society. CSR theories were introduced before the birth of environmentalism in the sixties and the advent of Sustainable Development as introduced by the Brundtland report in 1987 and the Rio Documents in 1992. Sustainability or Sustainable Development is often seen as one of many CSR theories.⁹⁷ The concepts seem to be intertwined not only among academics but also among businesses. Many business organisations seem to mix CSR with environmental Sustainability. The definition used in this thesis is based on what has been decided within the UN. In this work Sustainable Development is considered to be a legal principle.

Bowen is mentioned as one of the early promoters of CSR with the book *Social Responsibilities of the Businessman*.⁹⁸ It has, however, also been argued that CSR has its roots in the labour conflicts in the United States of the 1930s,⁹⁹ roots that could be explained through Luhmann's systems theory, i.e. the unease created by those conflicts. CSR tends to have a positivistic undertone meaning problems should be solved by regulation.

The approach to CSR in the 1950s was based on voluntary participation giving unions a greater role. Later in the 1970s management tried to dismantle the power of the unions and the democracy they were propagating for.¹⁰⁰ One conclusion was that there are simply no obvious benefits for businesses in applying CSR. Friedman had to be taught alongside Galbraith in business schools. Seemingly the interest of business organisations and CSR could not be integrated. The view held by Friedman,¹⁰² that the only responsibility business have is to make money

⁹⁷ Mikkilä, M, and Toppinen, A, (2008) pp. 500-506.

⁹⁸ Garriga, E, and Mele', 2004, p. 51.

⁹⁹ Marens, R, 2008, p. 55.

¹⁰⁰ Ibid. p. 65.

¹⁰² Friedman, M, 1962.

for their shareholders shows how difficult it was among at least some groups to accept CSR. This thesis highlights that a sustainable approach may be another way to make more money for the shareholders rather than just making a profit following the law as close to the wind as possible.

3.1. The Narrative of Sustainable Development.

The narrative of Sustainable Development could start with a notion of Rachel Carson's *Silent Spring*. Then it could carry on with the UN conferences starting from the early 1970s ending with the Rio Declarations. The end result of the process can be seen as a compromise. On the one hand environmental NGOs were taken under the UN umbrella and accepted as partners rather than agitators. The NGOs also accepted that in order to save the environment people and the economy have to be given the opportunity to thrive. On the other hand, businesses were also taken on board, accepting that the environment and people have to thrive in order for businesses to do the same.¹⁰⁴ As a result a global agreement for Sustainable Development was created. This meant the environment, the economy, and people would be given a chance to coexist. NGOs were involved early on within the UN but through what later became the Rio documents they established themselves as an integrated part of the global community.

International treaties may give a formula for how to solve strictly legal issues in relation to Sustainability. The principle of Sustainable Development, however, is not just about strictly legal issues. It is about taking environmental issues, social issues and the economy into consideration simultaneously. We are confronted with situations where the interest of the three pillars of Sustainability differs from each other.

¹⁰⁴ An example of this is the Swiss entrepreneur Stephan Schmidheiny who attended the earth summit in Rio in 1992. He later founded the World Business Council for Sustainable Development. <http://www.wbcsd.org/home.aspx>, 10.5.2013

Enforceability of Sustainability as a principle may be difficult but it does not stop NGOs trying to make businesses aware of it.

The principle of Sustainability can be seen to form an historical account of a number of conferences held by the UN. It is something created not only by Member States, but also to a high extent by non-governmental organisations. The making of environmental law in this manner has a democratic touch.¹⁰⁵ When it comes to autopoiesis, it can be argued there is a connection between the agonistic approach and the requirement of irritation. Disagreement rather than agreement is what develops Sustainability.

In discussing whether there actually is a legal principle of Sustainability or just wishful thinking, Bosselmann argues for the normative character of Sustainability.¹⁰⁶ Whether businesses realise this is not necessarily crucial. It is more important to make businesses realise the commercial potential in applying the principle by better resource management or by being first in having it on the agenda. Profitmaking may be seen as an ugly word but at the same time profitability is a pre-requisite for any operation; therefore it must be seen as ethical to make money by being sustainable. Even NGOs have to finance their operations in the form of donations. Sustainability that results in better profitability can result in an evolution that creates even more Sustainability.

The set of UN-led conferences on international law and environmentalism, started with the 1972 UN Conference on the Human Environment in Stockholm. This was, however, not when it all began. Within the UN the environment popped up earlier. In December 1962 at the plenary meeting UNGA resolution 1831, it was decided to recommend measures in relation to the natural environment. The second article of the resolution supports an involvement of NGOs in achieving this aim.¹⁰⁷ In 1968 in resolution 2398 the UNGA decided to hold a conference on the

¹⁰⁵ Rettig, H, 2008.

¹⁰⁶ Bosselmann, K, 2008, pp. 44-77.

¹⁰⁷ UNGA resolution 1831, December 1962.

Human Environment.¹⁰⁸ Having a conference was suggested by Sweden.¹⁰⁹ From a Luhmannian perspective a programme and operations began taking shape.¹¹⁰

The conference, which resulted in among other things the establishment of the Governing Council for Environmental Protection and an Environmental Secretariat, was a result of an “intricate legislative process”.¹¹¹ According to Sohn, agreements were to a high extent reached before the conference. It was a result of cooperation between “the Secretariat, panels of independent experts and intergovernmental working groups”.¹¹² This is a working method seen on later occasions like in Rio 1992.¹¹³ It could be suggested that the method used by NGOs to enforce the principle of Sustainable Development has spread outside the UN. Interesting for future Sustainable Development Law was perhaps not what was achieved, but the foundations for a new way forward that was laid. The inclusion of NGOs in the process resulted in a different level of interest in putting what was on a sheet of paper into real life action.

The United Nations is a club of Member States, but in this conference non-politicians and non-representatives of those Member States were given a say in what was decided upon. Those NGOs will want to monitor the implementation of the decisions. Their interest could be seen as less politically biased than those of Member States. What drives NGOs is to fulfil their mission. Sohn writes that “diplomats and international lawyers are not yet used to this new method of parliamentary diplomacy, through which decisions are made and documents approved in much more informal ways than in parchments, red wax and elaborate seals”.¹¹⁴ Later conferences show that this was only the beginning of a new method of “law making” within the international community. It could be argued that

¹⁰⁸ UNGA resolution 2398, December 1968.

¹⁰⁹ Sohn, L, 1973, p. 424.

¹¹⁰ Luhmann, N, 2004, pp. 118, 78.

¹¹¹ Sohn, L, 1973, p. 424.

¹¹² Ibid.

¹¹³ Rettig, H, 2008.

¹¹⁴ Sohn, L, 1973, p. 424.

this was when the Global Bukowina, mentioned in chapter 3 p. 26, met with Westphalia.¹¹⁵

The Stockholm Conference already hints at a plan including not only Member States but also Non-Governmental organisations in its work. This was, I believe, a completely new approach to organising world affairs. It is an approach that shifts power from Member States to NGOs. Now any organisation would have the opportunity to at least make their point. As noted above, however, this self-declared role as experts may lack accountability. This has always to be taken into consideration. The final decision is always made by Member States. It can also be concluded that this way of developing Sustainability was not a democratic one, at least not in a parliamentary manner.

The Stockholm conference was followed by the Earth Summit, or as it is also called the 1992 Rio Conference on Environment and Development. This resulted in Agenda 21, a non-binding document, and the UN Framework Convention on Climate Change, the Convention on Biodiversity and Global Consensus on Management Conservation and Sustainable Development of Forests.¹¹⁶ Before this the Brundtland Report on Sustainable Development was published in 1987. The 1992 conference was followed by a conference in 1997 in New York, one in 2002 in Johannesburg and a follow up in Copenhagen in 2009.

The UN-lead conferences resulted in a massive increase of influence for NGOs. Not only did the influence increase, so did the quality of the decision-making.¹¹⁷ However, there is and has to be a limit to the influence NGOs are allowed to have within the UN. The UN is after all a club of sovereign states. On the other hand, NGOs are often experts in their own field providing Member States with knowledge they would not otherwise have.

¹¹⁵ Westphalia refers to the peace of Westphalia 1648.

¹¹⁶ Galizzi, P, 2005-2006, p. 972.

¹¹⁷ Segger, M-C, and Khalfan, A, 2004, pp. 49-50.

At the same time, Member States have to keep in mind that NGOs have their own agenda to pursue. Expert knowledge and ideology is easily mixed. In relation to Sustainability, environmental NGOs tend to support environmental issues leaving social issues and the economy to one side, whereas social NGOs emphasise social issues.¹¹⁸ The advice given by NGOs representing businesses may also be unbalanced. This is the problem with a-centricity. The system is pluralistic to its character and in this way it gives everybody a say. At the same time, it is very difficult to take the three pillars of Sustainability into consideration simultaneously. This is not necessarily a bad thing because it gives everybody the opportunity to participate. The parties involved have to, at least to a greater extent, accept the output from the UN. Even if NGOs do not decide themselves, in reality they may decide on what is decided upon through their presence.

It is possible for the UN to create governance models in relation to Sustainable Development. There is a risk, however, that a top down governance does not achieve its aim to support Sustainability. A better result may be achieved by businesses taking the lead creating a bottom up approach. In a modern society businesses may represent the executive, whereas NGOs may represent the courts. It may look like a rule of agonistic adversaries.¹¹⁹ Both need each other to survive in the long run. Have the efforts made under the UN umbrella made any difference to the state of the earth? Some argue hardly anything has changed.¹²⁰ Others argue the opposite.¹²¹ A look at the economy and social issues as well as the environment may, however, give a different view than just concentrating on the natural environment.

From a Luhmannian perspective the events discussed above show how the decisions made became the legal structure of Sustainable Development.

¹¹⁸ Scherrer, Y, 2009, pp. 555-571.

¹¹⁹ Rettig, H, 2008.

¹²⁰ Galizzi, P, 2005-2006, p. 953.

¹²¹ Lomborg, B, 2001.

Sustainability can also be seen as just one discourse among others deriving from environmentalism. The difference between Sustainable Development and others is that Sustainable Development has been approved by the United Nations. In order to demonstrate the wide variety of discourses I have given some examples below. The Sustainability discussed here is obviously not an environmental discourse, but a combination of environmental, economic and social discourses.

Survivalists maintain there are only a certain number of people that can be supported.¹²² In India and China this resulted in an effort to limit the growth in population.¹²³ Economic growth also has to be limited because according to the survivalists, there are not enough natural resources to support unlimited growth. Proponents of Survivalism have included advocates of dictatorship to supporters of direct democracy. At the heart of the movement are scarce resources, hierarchy and control and a leadership consisting of an elite. One metaphor for the survivalists is spaceship Earth.¹²⁴ Survivalism is at odds with Sustainability as it neglects humanity. It is also at odds with the western way of life, a way of life that we try to export to the aforementioned China and India, as well as Africa.

For Prometheans the sky is the only limit. They argue that so far wealth and life expectancy have only grown. According to Dryzek “Promethean discourse comes close to denying the very existence of nature”.¹²⁵ If we run out of one natural resource another one will be found to fill the gap. Prometheans represent a capitalistic view. This means competition and a hierarchy of humans with self-interest as the driving force.¹²⁶ It can be argued this way of thinking is against Sustainable Development in that it ignores environmental issues. It can also be argued it supports Western

¹²² Dryzek, J, 2005, p. 27.

¹²³ Ibid. p. 42.

¹²⁴ Ibid. pp. 27-41.

¹²⁵ Ibid. p. 58.

¹²⁶ Ibid. pp. 51-71.

behaviour if not necessarily Western values in that it seems to support never ending economic growth.

Dryzek describes Sustainable Development as a discourse born in the 1980s. The aim was to bridge the conflict between environmental, social and economic issues. The starting point he put at the time of the release of the Brundtland report in 1987.¹²⁷ This is perhaps not the most radical of the discourses but it is the basis for the Rio Declarations and as mentioned above the one that is close to being something that can be called a global law in relation to the economy, people and the environment. It is also universally inclusive in that it does not only involve Member States of the UN but non-state interests as well.

Which approach would be the natural one for businesses? This obviously depends on the business in question. It would probably not be in the interest of the pulp and paper industry not to replant a forest after it has been cut. It would simply not be a reasonable handling of resources. In this sense pulp and paper businesses would tend to be survivalists. On the other hand, they are not likely to leave the forest standing either. They would like to grow as much timber as possible. Oil businesses, on the other hand, would probably drill for oil as long as it is profitable, being Promethean.

3.2. Sustainable Development – Law, Principle, Justice

I stated above that Sustainable Development Law could be found where the three pillars of Sustainability meet. Is the law hard law or soft law? Weeramantry in discussing the concept of Sustainability concludes; “Courts and countries must endeavour to administer and implement Sustainable Development Law, just as is done with other “hard” established rules”.¹²⁸ Weeramantry argues Sustainable Development Law “is necessary in the areas where the social, economic and the

¹²⁷ Dryzek, J, 2005, p. 16.

¹²⁸ Weeramantry, G, 2004, p. ix.

environmental – overlap, balance and integrate”.¹²⁹ This is certainly the case but does this approach fulfil the spirit of Sustainable Development? Not necessarily.

In her book *Just Silences*, Marianne Constable brings forward the notion that law seems to ignore justice. Justice may be woven into the fabric of law but is not mentioned.¹³⁰ Even if justice can be found, the question “justice for whom” arises. Is justice for the business, for the NGOs, for the people or for the environment the aim? How about others affected? At the end the court will decide and interpret the law. The law is the law but its interpretation may have little to do with justice. And again the question that pops up is whose justice? What businesses think is justice may differ a lot from what environmental NGOs believe.

Where is justice located? Protest movements do not seem to find justice in the legislation. The reason for this is that justice exists outside the legal system. In protesting they send out a message for a need for a different solution than law has to offer. The code of law is legal/illegal and this does not fit a code of just/unjust. A law that does not fulfil the expectations of society may not be legitimate. Philippopoulos-Mihalopoulos¹³¹ quotes Priban, J, “the social space of instability and constant confrontation is the space in which legitimation takes place”.¹³² Law has its own interpretation of what is just. Lack of legitimacy may well be the nutrition for social movements. Luhmann did not see justice as the aim of law. What he saw as important was consistency, i.e. similar cases should be decided in the same way.¹³³ This may be justice, and it is clear that if identical cases would be decided differently this would be unjust, but it does not make everything legal just. This is the way the legal system defines justice. For an external observer, however, the conclusion

¹²⁹ Weeramantry, G, 2004, p. ix.

¹³⁰ Constable, M, 2005, pp. 8-44.

¹³¹ Philippopoulos-Mihalopoulos, A, 2010, p. 88.

¹³² Priban, J, 2001.

¹³³ Luhmann, N, 2004, p. 219.

may be something different.¹³⁴ If there are differing views between the system and its environment, then the environment in the form of protest movements may protest. Even if the legal system considers itself to be just through consistency, what is outside the system does not have to do so. Could such discrepancy result in different rules outside the legal system that could force organisations within the economy to behave in a manner that is acceptable both for the legal system and for social movements? Or could it be that organisations such as NGOs use legal concepts such as contract law and/or persuasion in order to have the law changed or change the behaviour of business organisations instead. In this way “justice is to be found *through* law and *in spite* of law”.¹³⁵

If justice is not found within law then there will be an attempt by the environment of the legal system to create those rules outside or together with the legal system. The law can be interpreted and be applied but it will not necessarily be within the spirit of Sustainable Development. This suggests that the law alone is not enough; something else is needed. Criticism may fulfil at least part of what is lacking.

When looking at the way Luhmann’s theory of social systems deal with the issue above, one can conclude that the problem with any law is that it is impossible to know in advance what the consequence of the law will be. Even if legal decisions are supposed to be consistent there will always be contingency. Even with the best of intentions law will not always deliver justice. As I discuss later, using law as an instrument to steer society is tricky. If the law does not manage to fulfil the expectations of society another system will attempt to do it instead. As mentioned in chapter 1 p. 8 it became difficult, if not impossible, for the pulp and paper industry to sell paper to German publishing houses if they could not trace the origin of the raw material. In other words the behaviour of these businesses had to do with the reactions of consumers and NGOs rather

¹³⁴ Philippopoulos-Mihalopoulos, A, 2010, p. 91.

¹³⁵ Ibid. p. 94.

than law i.e. when the law was not sufficient the environment of the legal system came to help.

There is, however, a problem when it comes to justice. I was asking the question justice for whom above on p. 41. In discussing justice, Teubner brings up the issue of poly-contextuality that I discuss further in chapter 4.4 p. 84. Essentially, poly-contextuality results in a-centricity and a situation where there will never be one single view on what justice is.¹³⁶ There will be no universal justice. A-centricity discussed in chapter 4.4 p. 84 - can be seen as an enabler for Sustainable Development but at the same time it excludes universal justice. What is needed is pluralistic justice that allows for a multitude of contextualities.

In juridical terms consistency may suffice but the law tends to evolve. This suggests that there is change outside the system that is attributable to changes in the system. Teubner's reading of Luhmann is that law's justice "goes beyond internal consistency,"¹³⁷ taking the external into account. This allows for the law to take the environment of the law into account but it does not necessarily solve the problem with poly-contextuality that can be a highly selfish phenomenon.

When discussing Sustainable Development Law, one is faced with the triumvirate of environment (physical environment), people and the economy. If one looks at these three individually, the view the environment (natural habitat) holds in relation to what sustainable is may well look quite different compared to those of the people or the economy. Coexistence must therefore be the starting point in enforcing Sustainability. Sustainable Development Law created under the UN umbrella is the only set of rules with a global impact accepted by Member States and non-state actors and therefore important in this process.¹³⁸

¹³⁶ Teubner, G, 2009, p. 4.

¹³⁷ Ibid. p. 9.

¹³⁸ What I mean here with non-state actors at this instance is that the declarations were supported by NGOs and businesses alike.

The principle of Sustainable Development cannot be law in the traditional sense. At its best it can require procedures for how to behave in certain circumstances. Bregman & Jacobson refer to Teubner's model where procedures are set up by the authorities to direct the behaviour of businesses in a desired direction.¹³⁹ Luhmann does not subscribe to this kind of an attempt to steer. At best he acknowledges self-steering where organisations could reduce the difference between themselves and their environment.¹⁴⁰ A risk with this kind of a limit setting procedure, is the knowledge that lies behind the limits. If the result is that all businesses in a certain industry make the same mistakes, there must be a mechanism for how to change the directives given by the regulating authority. Sustainable Development Law cannot be the same as environmental law. How is a regulator to regulate in such a way that the environment, the economy and people are accounted for? Is a benign approach enough? What if the regulator gets it wrong? What if the regulator does not have enough integrity?

Weeramantry,¹⁴¹ states there is an obligation for Member States to legislate according to the UN declarations. Magraw and Hawke,¹⁴² conclude that Sustainability is a paradigm not a legal norm. This would mean that there is an obligation to legislate, but exactly what the content of those laws is stays unclear. As long as there is no clear definition of the concept of Sustainability a coherent legislation in Member States is a difficult task to achieve. This is especially the case if it is not a law but a paradigm as Magraw and Hawke suggest. Spatially, Member States cover only a limited territory, whereas businesses can be truly global (as can NGOs) giving them the possibility to shop for Sustainability laws where it is most advantageous for them. For example, production plants outlawed in one country can be moved to another. This does not necessarily have

¹³⁹ Bregman, E, and Jacobson, A, 1994, p. 221.

¹⁴⁰ Luhmann, N, 1997(b), p. 42.

¹⁴¹ Weeramantry, G, 2004, p. ix.

¹⁴² Magraw, D, and Hawke, L, 2007, p. 637.

to mean moving capacity from a developed country to an emerging country. This can also happen within the European Union. Regulations differ enough for one set of equipment being banned in one EU country being legal in another. Is it sustainable to move equipment from one country to another to avoid stricter rules in the former? Is it sustainable to sell used equipment to the other country at an arms length basis achieving in environmental terms exactly the same?

There is International Economic, Social and Environmental Law and in that sense Weeramantry¹⁴³ is correct – there is a set of laws that should be implemented by Member States as any law. He does not see Sustainable Development Law as soft. Sustainability, however, seems to be more than just a set of laws. It is a concept or a principle stating a balance must be found between economic, social and environmental issues. In order to succeed it may be the case that the law should be separated from the concept or the principle. The reason for this is that it gives more space for entities like NGOs to participate in the implementation of Sustainability.

Bosselmann¹⁴⁴ suggests “strong Sustainability” is the correct approach, referring back to medieval times. The UN, however, agreed upon the Rio documents. I consider the UN a legislature. The result may be ambiguous, which it is but it is nevertheless a number of documents decided upon by the UN. However, Weeramantry looks for the origin of Sustainable Development in ancient behaviour of aboriginals based on their ability to live alongside nature.¹⁴⁵

¹⁴³ Weeramantry, G, 2004, p. ix.

¹⁴⁴ Bosselmann, K, 2008, pp. 22-25.

¹⁴⁵ Weeramantry, G, 2004, p. ix.

3.3. Conclusions

International Sustainability Law is based on International Economic Law, International Social Law and International Environmental Law. It is perhaps not a surprise that different areas of law clash with each other. When this happens there are rules for how to deal with it. A different issue, and this is the main issue in my argumentation, is that the consequence may be that the law may have been followed, but at the same time, what is deemed to be lawful may not fulfil the idea of Sustainability. I return here to the issue of justice. From the point of view of environmental NGOs, a decision by the court may not be sustainable at all. Again, a business may reach a different conclusion. Sustainable Development Law may stop a business from doing something but it does not necessarily make the undertakings of the business sustainable.

Technology plays a part as well. What is achievable today was not so ten years ago. When technology becomes increasingly environmentally friendly, society can demand more from businesses and strengthen rules and regulations. If the pace is too fast, however, the economy cannot cope with it. Technology is based on science where we are looking for what is true and what is false. Here, Luhmann highlights the paradox embedded in this, namely *ceteris paribus*. Everything will not stay the same and this way all scientific theories are based on false presumptions.¹⁴⁶ We also do not know what impact technology will have on social behaviour.¹⁴⁷ What is good for the health or wellbeing of people may be viewed in one way today but differently tomorrow. A static law is not enough to achieve Sustainability. The law has to evolve in order to keep pace with the expectations of society. When it comes to silviculture, best practice of today is not what it was ten or twenty years ago. The goal posts do move all the time. We cannot jump from non-Sustainability to Sustainability in one go, if not for other reasons, so for the reason that we do not really

¹⁴⁶ Luhmann, N, 1989, p. 81.

¹⁴⁷ Ibid. p. 72.

know what is sustainable or not. Therefore, when it comes to enforceability, it may be better if there are organisations pushing Sustainability forward than legislation. The implementation of Sustainability has not reached its final legal definition. Maybe it never will. The Rio documents are too ambiguous to result in one conclusive definition. Even if all organisations were able to do so their definitions would be slightly different from each other. Poly-contextuality may serve as a way to explain this.

Observing environmental NGOs and their attitudes to Sustainability is likely to show that environmentalism of some kind will serve as the foundation for these organisations' definition of Sustainability. The natural environment is likely to always come first. For social NGOs, social issues are likely to come first and for businesses there will always be the prerequisite of profitability. This condition may be seen as something obvious but has been concluded by authors such as March and Simon.¹⁴⁸ The problem for businesses may well be the difficulty in combining profitability, the environment and social issues. A starting point for businesses is always likely to be profitability. Here I believe businesses and NGOs have a lot to offer each other. Environmental NGOs are likely to know more about the environment than businesses. If that environmental knowledge could be brought in to the sphere of businesses the result could be environmentally safe products or services that are more profitable than non-environmental ones. From a systems theory point of view this means business organisations have to do this based on their own internal operations. This can happen through a consequence of irritation in the form of resonance or through structural coupling with NGOs like the FSC.

Sustainability is pluralistic in its nature. NGOs and non-state actors have had the opportunity to influence the principle not only within the UN but also when it comes to making sure businesses live up to the standards

¹⁴⁸ March, S, and Simon, H, 1958, p. 47.

required. NGOs represent quite different constituencies compared to Member States. A consequence of the way the laws are created is a pluralistic approach where everybody can express their views. The role NGOs have taken in enforcing the legal principle of Sustainability attempts a situation where praxis evolves all the time resulting in a continuously improving situation for the environment, the economy and society at large.

Perhaps this is the advantage of letting NGOs take part in the enforcement of Sustainability. Enforcement in the sense that they make businesses aware of how they believe businesses should behave. NGOs are experts in their own field. Environmental NGOs have knowledge of the natural environment. Social NGOs know about social issues, and that is what they are confident in doing. Maybe this is paradoxical, but at the same time it should be clear that NGOs could not be expected to know everything.

Perez brings forward the “irresolvable” dilemma of pluralistic societies. Law is supposed to be consistent and bring certainty.¹⁴⁹ This is the basis for justice. As noted above this was also Luhmann’s interpretation in chapter 3.2 p. 41. Equal cases were to be dealt with in a similar manner. This does obviously not mean that consistency will bring just verdicts as the verdicts can be unjust. At the same time, pluralism should tolerate different views. This applies to fairness as well. It is not for NGOs to pass judgments. Their role is to make society aware of things. Businesses are part of society and by criticising businesses NGOs exercise the power they have acquired. Perez talks about the incongruence of coherence and pluralistic sensibility.¹⁵⁰ The beauty of pluralism is that it allows for different views to coexist. The flip side of it is the lack of coherence. Even if NGOs attempt to take all three pillars of Sustainability into account different NGOs will see things at least slightly differently. The power of NGOs does, however, not extend to sentencing. Their power lies in

¹⁴⁹ Perez, O, 2005, p. 120.

¹⁵⁰ Ibid. p. 121.

informing in a truthful way. Some people may think they go too far but that is for the courts to decide.

How are businesses to react to this incoherent, unpredictable enforcement of the law? Maybe the way they do react is to take the presence of NGOs into consideration. The businesses' view may well differ from the views of the NGOs but at least Sustainability will be taken into consideration. This way at least the idea of Sustainability will thrive.

Above I have discussed the issue of hard law and soft law. It becomes clear to me that it does not necessarily matter that much to NGOs whether Sustainability is hard law or soft law. It is a principle that has been decided upon by Member States; therefore NGOs can argue they have the legitimacy to act. Perez referred to Alice in Wonderland and Humpty Dumpty where he had the privilege of choosing the meaning of a word.¹⁵¹ The uncertain or unclear meaning of Sustainability and the way NGOs interpret it may sound draconian but unlike the queen in Alice in Wonderland¹⁵² NGOs cannot sentence first and then give the verdict. NGOs can only give a verdict. In relation to Sustainability the reply may well be, whose Sustainability?

The ambiguity will always be present and the correct answer will always lie with the one asking the question. But does the same not apply to the precautionary principle and the polluter pays principle? Bosselmann,¹⁵³ as mentioned above argues that there must be a strong Sustainability. It is clear that if the natural environment is destroyed there is no way humanity will survive. The economy, society and the environment are as dependent on each other as psychic and function systems. This means that at some stage a sustainable situation has to be achieved. On the other hand, the legal principle is based on documents accepted by Member States and alike. In reality this means that before the equilibrium where both society and the natural environment can survive can be achieved

¹⁵¹ Perez, O, 2005, p. 120.

¹⁵² Ibid.

¹⁵³ Bosselmann, K, 2008, pp. 22-25.

things may initially have to become worse. At the same time, if businesses see the commercial opportunities in becoming more sustainable, then there is a clear incentive and an increasing number of businesses will take the path of Sustainability. Where does this lead us? Barnhizer is referring to Sustainability as the impossible dream.¹⁵⁴ His view is that legislation is needed in order for Sustainability to thrive. At the same time, we have seen that Sustainability is an evolving concept meaning that we cannot just legislate in order to become sustainable. We have to involve all interested parties in the process, businesses, NGOs and Member States of the UN alike in order to move towards Sustainability. Barnhizer's carrot and stick approach attempting to steer society may be as impossible as Sustainability's impossible dream.

¹⁵⁴ Barnhizer, D, 2005-2006, pp. 595-690.

Part II

Methodology and Method

4. Methodological Discussion

Below I discuss methodological aspects in relation to the study, the basis for how the research questions were addressed. First I start with some basic components around Luhmann's systems theory. Then I discuss irritation that was mentioned in the introduction, p. 1. This is an essential element of the methodology describing how the environments of organisations have an impact on the way they behave. I discuss the role of NGOs in relation to Sustainability. Especially interesting is self-proclaimed policing and shaping of new rules in relation to Sustainability. The other Luhmannian concepts and ideas to be discussed are resonance, the origin NGOs have in social movements and the limits of steering (social engineering) and poly-contextuality. I continue discussing the a-centricity of Sustainability. Centricity or rather the paradox of it is a major component in the reasoning of the thesis. Sustainability is centric on a sub level but a-centric when it comes to the distinction sustainable/not sustainable. I then address the relevance of the difference between the observer and the observation. Finally autopoiesis will be introduced and issues around Luhmann's organisation theory are discussed.

Luhmann's social theory is based upon function systems such as the legal, religious, economic and political systems. These are not static, on the contrary they evolve over time and they can only be observed through distinction. The function systems are operationally closed but communicate *about* the outside world through cognition and structural coupling. It is a theory of communication based upon the distinction between the system and its environment. Apart from function systems, Luhmann defines organisations and interaction between people as social systems. Organisations behave in accordance with internal rules based

on decisions. The decisions are based on decision premises based on previous decisions forming the structure of the system.

There is a difference between function systems and organisations in that organisations are operationally closed but they nevertheless do communicate with each other, which is not the case with function systems.¹⁵⁵ Function systems only communicate *about* each other.¹⁵⁶ The decision premises of an organisation can always change and should change for the organisation to differentiate itself from its environment. When it comes to Sustainability the decision premises can be changed in order to reduce waste and to improve social circumstances within the organisation. Even if it will result in a better outcome for the environment and humanity, Sustainability can only be achieved based on the organisations' internal operations. It cannot be done according to some other organisations' decision premises. This thesis shows that difference is minimised when it comes to sustainability, but that at the same time difference is increased when it comes to organisational differentiation that is discussed in chapter 5 p. 113.

Communication, and in this instance also decisions, in Luhmannian terms has its own definition. Communication relates to change. If change in A is attributed to change in B then there may have been communication.¹⁵⁷ Information, utterance and understanding are the building blocks of communication. Information is what could have been said, utterance is how and why something is said, whereas understanding is "the distinction between information and utterance".¹⁵⁸ Luhmann asks "how is social order possible"?¹⁵⁹ This can be expressed in the form of double contingency. It is something that is "neither necessary nor impossible".¹⁶⁰ Communication arises from double contingency. Double contingency

¹⁵⁵ Luhmann, N, 1997(a), p. 834.

¹⁵⁶ Åkerstrøm Andersen, N, 2003 (c), p. 81.

¹⁵⁷ Luhmann, N, 1995(a), p. 39.

¹⁵⁸ Seidl, D, 2005, p. 28.

¹⁵⁹ Luhmann, N, 2013, p. 233.

¹⁶⁰ Ibid. P. 235.

requires A to be understood by B and B to be understood by A, otherwise there is no communication.¹⁶¹ If there is no communication there is no society either. The communication does, however, not have to be understood in the same way by both A and B. To put it another way: “If you do what I want I will do what you want” does not change the system.¹⁶² It is the asymmetry caused when A and B do not understand each other or if A does not do what B want that changes the system.

Organisations can pick up utterance from other organisations. The understanding, however, is dependent not on the utterer but on the observer. As concluded above organisations can communicate with each other¹⁶³ giving them the opportunity to decide what codes to operate.¹⁶⁴ How the communication is perceived, however, is dependent on the internal operations of the observing organisation. This means what NGOs are trying to communicate does not have to bear any resemblance to how business organisations are communicating their Sustainability. The business organisation can only communicate in accordance with its internal operations, and this means that in order for the NGO to have accepted the situation, their understanding must have changed. Otherwise it would have to continue its communication towards the business organisation. It could be argued that it is the un-fulfilment of expectations that keeps the autopoiesis going within both business organisations and NGOs. Sustainability may be the aim for all organisations involved. How it should be done is where there are different views. It is not straightforward for NGOs to understand the operations of business organisations and the same is true of business organisations’ understanding of NGOs or political organisations. This is a big hurdle especially when Sustainability is a recent phenomenon among the organisations studied.

¹⁶¹ Moeller, H, 2006, p. 22.

¹⁶² Luhmann, N, 2013, p. 237.

¹⁶³ Luhmann, N, 1997(a), 834.

¹⁶⁴ Harste, G, 2003, p. 95.

Taylor claims CCO (Communication as Constitutive of Organisations) has to explain how large organisations are created and sustained. This is exactly what the theory of social systems is doing according to Schoeneborn.¹⁶⁵ My reading of this returns to the need for some form of disagreement otherwise everything would come to a standstill.

Borch presents a similar understanding when he states, "In fact one might fear the total consensus would be the end to communication".¹⁶⁶ Luhmann argued, "Communication is obviously impossible without any consensus, but also impossible without any dissent".¹⁶⁷ These views bear a resemblance to Mouffe's agonistic adversaries where the inherent conflict within political parties is the driving force behind politics.¹⁶⁸ Critics of Luhmann tend to attack the lack of human beings in his approach. Fuchs and Hofkirchner conclude, "The revolution in social science that he wanted to bring about is one that conceptually excludes human actors from society".¹⁶⁹ Luhmann did include human beings as members of an organisation but kept them in the environment of social systems. He realised the importance of human beings - it is just that he did not include them in the social system that was based on communication. This obviously does not mean human beings are not present. In his last book *"Organisation und Entscheidung"* he actually reserved a whole chapter to discuss the personnel of organisations.¹⁷⁰ To what extent he gave them another role than just machines can be discussed. He has been criticised for this.¹⁷¹ At the same time, we may ask what meaning the flow of chats has in an organisation.¹⁷² Luhmann regarded this kind of communication as interaction representing a system of its own. Human beings are psychic systems and belong to the

¹⁶⁵ Schoeneborn, D, 2011, p. 683.

¹⁶⁶ Borch, C, 2011, p. 37.

¹⁶⁷ Luhmann, N, 2002, p. 162.

¹⁶⁸ Mouffe, C, 2000.

¹⁶⁹ Fuchs, C, and Hofkirchner, W, 2009, p. 113.

¹⁷⁰ Luhmann, N, 2006(b), pp. 279-301.

¹⁷¹ Thyssen, O, 2003, p. 213-234.

¹⁷² McPhee, R, and Zaug, P, 2008, p. 31.

environment of social systems.¹⁷³ One example on the relation between humans and social systems is found in Luhmann's book *The Reality of the Mass Media*.¹⁷⁴ Here reality is formed through second-order observations via the media. Some irony is added when he concludes, "how is it possible to accept information about the world and about society as information about reality when one knows *how* it is produced?"¹⁷⁵ In this thesis the purpose has been to study organisations in order to see what decisions they have taken but not to speculate on the input of the members of the organisation, through interaction or otherwise. By excluding human beings, Luhmann created a boundary consisting of human beings. Luhmann gave an interesting comment on keeping human beings in the environment of social systems. First he thought he felt better in the environment than in a heavily criticised social system but he also realised that excluding human beings from social systems allowed for a radical individualism.¹⁷⁶

Fuchs and Hofkirchner refer to the Habermas/Luhmann debate and Habermas' critique of Luhmann's descriptiveness;¹⁷⁷ the critique being that it does not state what society could be like. Luhmann's theories have been seen as something that cannot be put into practice, it is just too descriptive in order to produce anything other than tautologies. Foucault said, "theory does not express, translate, or serve to apply practice: it is practice".¹⁷⁸ It is practice but the practice of telling how something that is happening will always be based on poly-contextuality and on second-order observation.¹⁷⁹ Similar critique is given by Mathur who says, "Why would people want to go through this vast amount of highly rigid and rather dry intramural academic communication when it has so little to

¹⁷³ Luhmann, N, 1995(a), p. 255.

¹⁷⁴ Luhmann, N, 2000.

¹⁷⁵ Luhmann, N, 2000, p. 122.

¹⁷⁶ Luhmann, N, 2013, 187.

¹⁷⁷ Fuchs, C, and Hofkirchner, W, 2009, p. 115.

¹⁷⁸ Deleuze, G, 2006, p. vii.

¹⁷⁹ Luhmann, N, 2006(b), p. 43.

offer for the theorization of broader socio-political consequence?"¹⁸⁰ One could, however, argue that in order to change something we need to know how society has evolved. This obviously hints at the social engineering Luhmann did not accept and which Teubner proposes in his reflexive law. However changes from within the system in the form of self-steering is not social engineering. In the universal system that includes everything only internal changes can be possible. Again, structural couplings between sub-systems are possible. Luhmann's approach can be said to be descriptive, whereas Teubner's reflexive law can be said to be prescriptive. Luhmann's systems theory does not accept the possibility of social engineering as Teubner's reflexive law attempts to do. The closed systems make attempts at steering difficult. What is possible, however, is "self-steering or difference minimising programmes".¹⁸¹ The un-steerability is by Moeller minted as the fourth insult to human vanity.¹⁸² Society is just too unpredictable. One can only do what one thinks takes society into a "correct" direction. This direction cannot be carved in stone. The *ceteris paribus* dilemma will always enter the scene anyway because events cannot be seen in isolation. When something is changed somewhere it will always result in changes somewhere else.

The behaviour of NGOs at the outset is spontaneous and can be seen as a result of resonance within the system. They are purpose driven in that they try to rectify uneasiness within the system. Doing this they may irritate other systems. Organisations can be founded around preservation of the natural habitat or social issues or just to make money for their owners. Societies, organisations and interaction as social systems irritate each other. This may or may not result in change but at least there is the

¹⁸⁰ Mathur, P, 2009 p. 357.

¹⁸¹ Paterson, J, 1997, p. 39.

¹⁸² Moeller, H, 2012, p. 28. The first insult was Copernicus discovery that the earth was not flat, the second one the Darwinian conclusion that human beings were not a final product but an evolving one and the third the importance of drives and unconscious forces. These insults were minted by Sigmund Freud.

possibility of change. The descriptiveness serves NGOs and business organisations the opportunity to try and implement some change without tearing the system down. In fact, the descriptiveness could make them aware that you cannot destroy the structure in order to build a new one. The existing structure has to evolve in order to improve. Adaptation will take place, which makes it possible. This would not be social engineering.

With regards to steering, there is only self-steering in Luhmann's social systems theory.¹⁸³ Society is not planned as it cannot be planned. The communist experiment in the Soviet Union supports this proposition. The same can be argued when it comes to the capitalist system.¹⁸⁴ Businesses solely based on money making cannot survive because of the irritation they would cause within surrounding systems. They have to take other systems into account. This was perhaps what Luhmann wanted to show in his book *Ecological Communication*.¹⁸⁵ In practical terms when it comes to Sustainable Development major players cannot operate if environmental and social issues are not taken into account. As I think Luhmann hinted at, this will result in risk reduction rather than in higher profits. Reduced risk, however, increases the likelihood of its autopoiesis continuing. More profit with less risk is, however, something welcomed by investors.

Change is achieved when ideas from the outside are implemented inside based on the internal structure of the system. It can only be done, however, if the organisation in question realises that it has to change in a certain way. If it does change it does not matter what the reasons were, i.e. *es ist ganz egal* whether it was because of ethical considerations or because of there was more money to be made by being sustainable. Even if it can be argued that Sustainability as such is based upon values, the values do not necessarily have to be positioned inside the business. This does not mean that values cannot exist inside the business. If the business changes its behaviour in a sustainable direction resulting in

¹⁸³ Luhmann, N, 1997(b), pp. 41-57.

¹⁸⁴ Moeller, H, 2012, p. 26.

¹⁸⁵ Luhmann, N, 1989

more profit it does not matter whether the values can be found inside the business or not. The law may change in the long run and a business may have introduced something it would have had to do at a later stage in any case but by doing it sooner rather than later it gained some competitive advantage and may well have earned more money. It may after all be the case that Sustainability for businesses is only a way of managing their physical and social assets in an economically sound manner.

If businesses do not move in a more sustainable direction, nature and society may require stricter laws in order to change the behaviour of business organisations. The risk here is obviously that business organisations may try to circumvent the rules and regulations and that the measures do not result in what was intended. The conclusion Barnhizer drew was that we need rules and regulations and enforcement and even then it would not be enough to protect the natural environment.¹⁸⁶ Stricter rules in one place, however, may result in production moving from one country to a country with laxer rules. This phenomenon is clearly illustrated by Dieter Helm showing that UK emissions of carbon have in effect been exported to China.¹⁸⁷

As noted in the introduction, p. 6, Luhmann saw ethics and morality as a distinction, a distinction that makes the observer divide people into good and bad. This he saw as a dangerous path.¹⁸⁸ Sustainability as a unit may be good but this does not mean that the bits and pieces are necessarily good all the time. Profit is a prerequisite for any business to survive. The only way to do business in the long run in a sustainable manner is by making profit. Actually it is the same for NGOs. They cannot survive making a loss either. It may also be the case that the only way to do business in the long run is by introducing sustainable decision premises into their decision-making. I think it therefore must be ethical to make profit on Sustainability. If we start dividing businesses and NGOs into good ones and bad ones we will probably not solve any problems in

¹⁸⁶ Barnhizer, D, 2005-2006, pp. 595-690.

¹⁸⁷ Helm, D, 2012.

¹⁸⁸ Luhmann, N, et al. 1995(b), p. 35.

relation to the natural environment and we will not improve people's lives either.

In his book *Law, Justice, Society*, Philippopoulos-Mihalopoulos discusses the apparent non-interest Luhmann had towards ecological issues. He concludes that what Luhmann wanted to say was that ecological problems could not be solved without taking the social system into account.¹⁸⁹ The principle of Sustainable Development seems to be able to do so. Taking only the ecology into account would bring in the risk of unsettling the possibility for both economic and social Sustainability. This means that solutions for ecological, social and economic problems alike have to be found. It is not possible to build a solution around only one of them. Ecological, social and economic Sustainability are all part of the problem and they all have to be a part of the solution to the problem as well. If we want businesses to become sustainable it has to be in their interest.

4.1. Irritation, Structural Coupling

"A system can reproduce itself only in an environment. If it were not continually irritated, stimulated, disturbed and faced with changes in the environment, it would after a short while terminate its own operations".¹⁹⁰ Organisations are social systems. In the event that organisations irritate each other they will, if acknowledged, sustain each other's autopoiesis. The concept of autopoiesis is explained later, chapter 4.6 p. 97, but for now it will suffice to say that autopoiesis means self-production. This means that organisations need an environment that inspires them to change. If not, then they would constantly look the same or terminate. A consequence of irritation may be organisational resonance.¹⁹³ Resonance can be explained as a result of the uneasiness experienced within a system when it is not comfortable with its

¹⁸⁹ Philippopoulos-Mihalopoulos, A, 2010, p. 174.

¹⁹⁰ Luhmann, N, 1987, p. 335.

¹⁹³ Luhmann, N, 1989, p. 15.

environment. If this is the case the system may start reverberating in order to rectify the situation. The irritation is self-referential and does not have to result in any consequences whatsoever. The organisation irritated does not have to change and can only do so through its own internal operations. The consequence of irritation can be described as itchiness felt within the system irritated.¹⁹⁴ This way the organisation realises it has to adjust to its environment but based upon its internal operations.

Maturana & Varela define structural coupling as “whenever the conduct of two or more unities is such that the conduct of each one is a function of the conduct of others”.¹⁹⁶ In the theory of social systems the definition of structural coupling is different. The environment does not contribute to the operations of the system at all as Maturana’s and Varela’s definition suggests. In Luhmann’s words “It is simply the specific form in which the system presupposes specific states or changes in its environment and relies on them”.¹⁹⁷ In observing structural coupling he points out this is “crude simplification”.¹⁹⁸ From the observers view it looks like there were “a temporary interlocking of independent units”.¹⁹⁹ This is not the case. In operational terms the system is always closed and any operation is therefore based upon the internal operations of the system in question. At the same time, Luhmann considers structural coupling the “paradox of simultaneous total dependence and total independence”.²⁰⁰ He mentions consciousness and communication as an example of this.

Luhmann in discussing loose and tight couplings concludes that tight couplings add to the risk of conflicts. He refers to family businesses where father and son do not get along.²⁰¹ This would suggest irritation caused by NGOs is likely to cause less conflict between businesses and

¹⁹⁴ Borch, C, 2011, p. 6.

¹⁹⁶ Maturana, H, & Varela, F, 1980, p. 136.

¹⁹⁷ Luhmann, N, 1992, p. 1432.

¹⁹⁸ Ibid. p. 1441.

¹⁹⁹ Ibid. pp. 222-223.

²⁰⁰ Luhmann, N, 2013, p. 201.

²⁰¹ Ibid. p. 252.

the NGO than when businesses subscribe to a voluntary scheme such as the Forest Stewardship Council. This could be explained by tight coupling in temporal terms potentially being a long-term commitment.

Organisations promoting Sustainability can be likened to protest movements engaged in making other organisations behave differently through irritation - "Protests are communications addressed to others calling on their sense of responsibility".²⁰² If the reason for the protest disappears then the protest movement will disappear as well.²⁰³ Can NGOs like Greenpeace and WWF be seen as protest movements? What about Oxfam? They certainly try to make their environment aware of specific problems. Oxfam improves the situation for the poor by selling used items and using the money for specific projects. They obtain these items by making people aware of the need for money. The items they receive are a means to achieving their goal, which is to reduce poverty through aid.

Greenpeace tries to change the behaviour of their targets. They get their funding by making people aware of what they perceive as environmental problems. To put it in simple terms, they get donations from people sharing the views of Greenpeace. In this way they can be seen as protest movements or similar to protest movements. They have all been founded as a reaction to a natural environmental or social problem. Ecological ignorance is swapped by NGOs for something concrete, a solution that is not necessarily one of their own and not necessarily working either.²⁰⁴ The protests may, however, result in business organisations acknowledging there is a problem.²⁰⁵ When businesses acknowledge there is a problem at least there is a chance they will react to it. The duty of the NGO is not to tell businesses how to do something but to make them aware of a problem.

²⁰² Luhmann, N, 2008, p. 125.

²⁰³ Ibid. p. 126.

²⁰⁴ Luhmann, N, 1998(a), p. 103.

²⁰⁵ Ibid.

The difference between pure protest movements and the NGOs mentioned above is that even if the problem does disappear these organisations continue to exist. When Greenpeace has solved a specific problem, it casts its sights on new problems. The business of the NGOs mentioned above is to make the environment (of the system) i.e. other systems aware of a problem in order for them to take responsibility for eliminating it or at least make it less of a problem. This raises the question of what the difference between commercial businesses and NGOs is. Can NGOs be seen as businesses with a different business model?

WWF of Sweden may serve as an example of this. Their website quotes a turnover of 250 million krona, i.e. around 22.5 million pound sterling. They say that they are involved in research, education and advocacy.²⁰⁶ Their income is based on donations from individuals but they also receive money from the state. This way it could be said that they sell nothing. On the other hand, it can be argued that donating to them may result in peace of mind, feeling good or a clear conscience. In terms of differentiation, Greenpeace produces a similar kind of communication. Yet it is easy to distinguish between the two. Greenpeace has much stricter rules on who can donate and they would not cooperate with businesses on projects. Compared to a spontaneous protest movement their funding is interesting.

Organisations, NGOs and businesses alike could also be seen as “social engineers” affecting the way Sustainability evolves. It is not just a question of NGOs irritating businesses. Business organisations may try to change the behaviour of NGOs as well. This way a set of rules outside the legislated legal framework based on, or perceived to be based on, the legal principle of Sustainability can be developed and sustained. The professionalism and knowledge of NGOs and businesses alike can always be questioned. Do NGOs have the answer to a problem they try to rectify?

²⁰⁶ WWF Sweden, <http://www.wwf.se/jobbb/lediga-jobbb/1123154-lediga-jobbb>, 17.07.2012.

If they do not does it in reality matter if the consequence is that businesses acknowledge the problem and try to rectify it? As noted above the duty of NGOs is to make businesses aware of a problem not to offer a solution.

I see Sustainable Development as the most realistic opportunity society has to offer in order to achieve both a better (natural) environment and a better situation for people without having an adverse impact on the economy. Businesses have a role to play both in relation to people and to the environment and they have resources that, spent differently, can move society in a more sustainable direction. Businesses are therefore in a pole position when it comes to implementing the legal principle of Sustainability. I do not think the importance of businesses is always understood when Sustainability is discussed. My impression is that businesses are seen more as part of the problem than the solution. I think all three pillars of Sustainability should be seen as part of the solution and not part of the problem.

The role businesses play in achieving ecological Sustainability has been acknowledged.²⁰⁸ Businesses are clearly a significant factor when it comes to pollution, but they are as relevant when it comes to social issues both in developed and emerging countries. In developed countries I believe the involvement of businesses is more likely to concern employees to a higher extent and society at large to a lesser extent while in emerging countries businesses are likely to take wider responsibility for their local area. When it comes to resources, businesses may be better positioned to implement sustainable behaviour than other organisations. The case may be that businesses implementing Sustainability may end up having better economic success than businesses carrying on in a traditional way.

The irritation or possible structural coupling caused by NGOs may result in a situation where it is impossible for businesses to sell their products if they do not behave differently. NGOs do not only irritate businesses but

²⁰⁸ Shrivastava, P, 1995, pp. 936-960.

often they seem to irritate the whole value chain. It may be the case that publishers do not buy their printing paper if it is not sourced from forests cultivated in a sustainable way. One famous example of this is the Axel Springer case where the publisher demanded pulp and paper companies to disclose where its raw material came from. The case is discussed further in chapter 7.4 pp. 193-194. For the pulp and paper industry this means the companies have to be in control of the whole chain, starting from the tree ending with the end consumer and all its sub-contractors. The Forest Stewardship Council is one of the NGOs certifying forests and thus giving businesses evidence that they behave in a sustainable manner.²⁰⁹

Debating the implementation of Sustainability, the question of what Sustainability is, is put on the agenda. I argue for looking at Sustainable Development as a legal principle aiming to create a path towards a balance between ecological, social and economic issues. Is there such a principle, and if there is what does it contain? There is as concluded before some support for the position that Sustainable Development has reached the status (or is approaching such a status) in international law that it can be called a principle.²¹⁰ The principle requires any decisions about to be made to take Sustainable Development into account and to find a balance between environmental, social and economic Sustainability. This results in a principle easy to grasp but still containing the problem of determining what is sustainable and what is not. The principle may be easy, but in practice it is difficult to define what Sustainable Development actually is.

How are businesses and NGOs going to interpret a principle based on these assumptions? We can find some advice from Parliament. When the Labour Government incorporated human rights into the UK legislation through the Human Rights Act 1998 they required all future laws to take the Human Rights Act 1998 into consideration. A similar procedure can

²⁰⁹ Forest Stewardship Council, <https://ic.fsc.org>, 26.02.2013.

²¹⁰ Mayeda, G, 2004, p. 29.

be introduced in the decision-making within business organisations and among the businesses studied this has already happened. Any decision can be tested against environmental, social and economic issues and a balance between those would be determined. It is obvious that this proposal at first sight lacks control. Who is going to be able to tell whether the outcome will be sustainable or not? That may be known only afterwards. Was a balance achieved? Introducing such a decision-making premise alters the decision premises integrating social and environmental Sustainability into the decision-making process.

My thesis is that business organisations are the ones with the capacity to do something about Sustainability based on the Agenda 21. To what extent the studied businesses actually have reached the ideas of Agenda 21 is a different story. My perhaps naïve approach can be contrasted with Barnhizer's blunt conclusion when referring to Agenda 21, "Humans should have learnt from such grand misperceptions as the French Enlightenment's failure to accurately comprehend the quality and the limits of human nature or Marxism's flawed view of altruistic human motivation that the "if only" is an impossibly Utopian reordering of human nature we will never achieve".²¹¹ I think that to a large extent the work of NGOs has had a real impact on the businesses I have studied. As will be discussed below I see Sustainable Development as a way for NGOs to become both enforcers and interpreters of what Sustainability truly is.

4.2. Claiming Legal Space

What are the limitations of law? It can be argued that environmental law does not protect the environment. It is more of a licence to pollute than a provider of a clean environment. Paradoxically, instead of protecting the environment it tells us how much we may pollute without breaching the law. This seems contradictory when PP (precautionary principle) and PPP (polluter pays principle) are added to the discussion. The polluter is

²¹¹ Barnhizer, D, 2005-2006, p. 598.

supposed to pay but he is getting a free ride with the help of environmental law. Here is a clear conflict between principle and law. The same could be argued in relation to the populations of emerging countries. Sustainable Development Law does not protect them, but at least it offers some help. This means there is always a good reason, for those dissatisfied with what the law is able to achieve, to oppose the current situation. Sustainable Development is different from PP and PPP in that it tells how decisions should be made, i.e. taking social issues and the environment into account. This way it goes beyond precaution and it is not just about the environment. Is it possible in legal terms to assess Sustainable Development? As mentioned in chapter 3 p. 25 Paterson,²¹² concluded a plausibility and reasonableness test could be a way forward, when it comes to the precautionary principle and judicial review. To what extent could this or similar tests be created to extend this possibility to other parts of Agenda 21?

In this thesis I see Sustainability as a socio legal phenomenon giving the environment of business organisations the legitimacy to criticise business organisations in case they do not behave as expected. From this point of view Sustainability becomes more of a tool in the debate rather than a real legal threat to businesses.

The aim of the research has been to answer what decisions organisations have made in relation to Sustainability over time. I would argue that where the law is not perceived to be satisfactory, organisations with the aim to rectify the situation will arise in response to the uneasiness felt as a consequence of the unsatisfactory situation. When laws and regulations as such are satisfactory but neither followed nor enforced, the situation is the same, there will be a response from NGOs. The uneasiness felt is entirely a result of social events. It does not need to have any bearing on science whatsoever. Organisations like NGOs are social systems structurally coupled with both the legal system and the political system. When it comes to Sustainability NGOs are coupled with the legal and the

²¹² Paterson, J, 2012, p. 100.

political system through the United Nations. This does not prevent them from being coupled on national levels as well.

An interesting phenomenon is the petition sites that have been established on the Internet. The petitions can concern anything. One example is the petition established in order to make companies sponsoring the London 2012 Olympics promise not to deduct their sponsor money in their tax returns. The NGO behind it actually managed to convince a number of well-known businesses to promise not to do it. This shows the power of NGOs.²¹⁴

The NGOs I refer to represent issues relating to environmental and social Sustainability. In their work NGOs try to close the gap between what the law achieves and what they believe the law should achieve. By identifying the gap they make inferences based on a set of evidence where not the evidence but the inferences are communicated. This process is something Luhmann called, uncertainty absorption.²¹⁷

There is an inherent conflict built into the Rio Documents where a balance between environmental, social and economic Sustainability is aimed at. The tripartite nature of the Rio Documents makes it hard if not impossible to achieve harmony between them all at the same point in time and place, and this is perhaps what keeps the “play everything louder than everything else” type of communication alive. There is always a sense of uncertainty and this uncertainty has to be absorbed. Looked at from a poly-contextural point of view the opinions on what Sustainability is will always differ. This makes it even harder to achieve real harmony between the three pillars of Sustainability.

²¹⁴ 38 Degrees, <https://secure.38degrees.org.uk/page/s/olympic-tax-dodging-petition>, The petition text sent to the CEOs of the companies reads as follows: To the CEOs of companies sponsoring the Olympics, Please do the right thing and pay your fair share of tax on your huge profits from the London Olympics
- Give up your Olympic tax break
- Publish full financial details to prove you've done it 25.07.2012.

²¹⁷ Luhmann, N, 2006(b), pp. 183-221.

It may seem paradoxical but if NGOs promoting environmental Sustainability would promote Sustainability as proclaimed in Agenda 21, i.e. finding a balance between the three pillars, the whole discussion regarding Sustainability on their part may collapse. The same concerns NGOs promoting social Sustainability. I see the discussion of Sustainability as one about direction. If Sustainability is achieved then the discussion is over. NGOs have to promote what they were founded for in the first place. Businesses have to primarily promote economic Sustainability - it is a pre-requisite for their continuing autopoiesis. The other pillars are present through decision premises but it is always the one that the organisation is centred around that comes first. What keeps the debate going is that NGOs and businesses in effect do not primarily subscribe to Sustainability as defined in the Rio documents. They subscribe to what they are founded for in the first place, which is to solve environmental, social or economic issues. This is how their decision premises are defined. Because of different contexturalities it is difficult if not impossible to achieve a situation where all organisations would accept each other as sustainable. The inability to achieve consensus on what the law is meant to achieve makes a continuous process towards Sustainability possible.

The method NGOs use in trying to close the gap between the law and principle in relation to businesses is trying to affect the behaviour of businesses. NGOs promoting environmental Sustainability, seen as autopoietic systems, produce (ecological) environmental communication, whereas NGOs promoting social issues produce social communication. This makes the different parts of Sustainability incommensurable at an organisational level. It does not mean that Sustainability would be an impossible equation to square as such, on the contrary. What matters here is the time frame. In the long run all of the three pillars of Sustainability have to be honoured. This makes it a zero sum game in the long term. In the short term, however, overly radical changes could destroy both the economy and society. We may move ever closer towards Sustainability, but we may never be able to achieve it.

I believe that NGOs involved in legislating through the UN framework will be engaged in rectifying any perceived discrepancies between the principle of Sustainability and enacted law. Exactly how these discrepancies are measured is based upon the NGOs' in question interpretation of the deficit between enacted law and what is seen as required by the NGO in question. The rectification is done through structural coupling between NGOs and businesses that do not live up to the principle or by irritation that may or may not result in resonance within businesses. From a business's point of view this happens through resonance and structural coupling. Businesses adapt by changing their decision premises in order to absorb uncertainty. The irritation does not cause resonance as such but it may make the business aware that its environment has changed.

An example of structural coupling is the NGO called the Global Reporting Initiative (GRI) that offers a framework for reporting on issues in relation to Sustainability. Businesses subscribing to its principles have to report as directed by GRI.²¹⁸ This way the rules of GRI become part of the businesses' decision premises and reproduced within the business organisation. The framework offers different levels of reporting, meaning that businesses subscribing to it can start on a lower level moving towards a more comprehensive reporting.

In case all businesses would be seen as sustainable by an NGO then the NGO in question would have to redefine its understanding of the concept or close down its autopoiesis. By disagreeing, i.e. by introducing new distinctions it can bring in uncertainty that keeps its autopoiesis alive. In practice it seems unlikely for NGOs like Greenpeace to close down as a result of having fulfilled their mission but that is something we cannot know.

What NGOs perceive as inadequacy of the legal system may give rise to the opportunity for NGOs to take on the role enforcing the principle of

²¹⁸ Global Reporting Initiative, <http://www.globalreporting.org/Home> , 26.10.2010.

Sustainability. This could mean that not only are NGOs participating in the making of Sustainability Law within the UN framework, they could also be involved in enforcing those principles. This way NGOs could be seen as widening the limits of law. This could mean that businesses closely monitored by NGOs may have to adapt and change their decision-making in relation to Sustainability. Operationally this could be realised by the internal premises available based on finding profitable solutions. A pre-requisite for any business is to make profit in the long run. Therefore this must be the basis for their operations. It can also be stated that businesses have to make more profit by taking the environment and social issues into account. At the same time, businesses, acknowledging the principle of Sustainable Development, have to rewrite their decision premises accordingly.

Maragia, discussing the role of NGOs, concludes that while they do not have a full legal status, they have become legitimate actors of international law without having a legal personality in international law.²¹⁹ This, however, contradicts practice.²²⁰ I believe their presence and status within the UN has been constitutive in reaching legitimacy. At the same time this adds some pressure towards accountability. Their inclusion in the global community helps to create accepted rules for society. In order to develop successfully, the affected businesses have to take Sustainability into account in their decision-making, i.e. their decision premises have to be developed accordingly. This thesis shows NGOs have had an essential role to play when it comes to implementing Sustainable Development.

²¹⁹ Maragia, B, 2002, p. 301.

²²⁰ Ibid. p. 332.

4.3. Resonance, NGOs, and Social Engineering

“How can environmental problems find resonance in social communication if society is differentiated into function systems and can react to events and changes in the environment only through these?”²²¹ This is an adequate question keeping in mind that the natural environment is not a part of the social system. In relation to resonance Luhmann says it; “signifies that systems can react to environmental events only in accordance with their own structure”.²²² This is also what he highlighted through his book *Ecological Communication*.²²³ Here the environment is not the natural environment but what is outside the system. He also refers to a society trying to distance itself from function systems through protesting and moralising.²²⁴ Protesting and moralising, however, can be a highly organised activity. Organised in such a way that they to a high extent resemble commercial businesses, environmental NGOs are systems irritating other organisations such as business organisations in order to steer them into behaving in a different manner. This may well be the case but even if it is the case they cannot know what the outcome will be. The only ones able to steer are the organisations themselves based on their internal operations.

The electronic way of protesting, discussed in chapter 4.2 p. 67, is something that was not created until recently and consequently something Luhmann probably did not think of. What the electronic protesting seems to show is that at least organisations can be affected. The political and the economic systems were affected by protests during the Murdoch scandals. One consequence could be seen in that The News of the World was closed down,²²⁵ and that News Corporation withdrew its bid to increase its ownership in BskyB.²²⁶ The outcome, however, was

²²¹ Luhmann, N, 1989, p. 36.

²²² Ibid. p. 145.

²²³ Ibid.

²²⁴ Ibid.

²²⁵ <http://www.bbc.co.uk/news/uk-14070733>, 23.04.2013.

²²⁶ <http://www.bbc.co.uk/news/business-14104397>, 23.04.2012.

a result of the internal operations of News Corporation and no one else could have decided or predict how News Corporation would behave.

Fuchs and Hofkirchner argue Luhmann saw protest movements as something harming society.²²⁷ My reading of Luhmann contradicts this. Luhmann did not involve ethics in his theory of social systems at all and he is unlikely to have had a particular normative view on this. I argue that he saw protest movements as a result of something society had not reacted to in time. There is always a reason for a protest movement otherwise the protest movement would not exist. It does not matter whether we disapprove what they are doing or not. If there is a reason a protest movement may be born.

As an example the green parties in Germany and the Nordic countries can be mentioned. Without environmental problems there would not have been any green parties. There would not have been any reason for them to be established. Both in Germany and Finland the green parties have been part of a coalition government. The system of proportional representation in these two countries has made it possible to achieve this with a relatively small share of the popular vote. It is interesting that in Germany the Green Party was in a coalition with the Social Democrats and in Finland first in a coalition with a centre right group of parties and then with a range of parties from the left to the right.

If green issues had been responded to politically in time it may well have been the case that the green parties would not have appeared on the scene. Instead other parties would have absorbed the green issues, something that to a large extent happened later. Today most Finnish and German political parties have green issues on their agendas, attempting to “steal” ideas from the Green Party. By establishing themselves as parties they (the Green Party) try to promote environmental issues through the structure of the political system. This way the green parties participate in political life. In Sweden the Green Party has not been in

²²⁷ Fuchs, C, and Hofkirchner, W, 2009, p. 114.

government yet but with roughly ten per cent of the votes it has been represented in Parliament since 1998.²²⁸

At the outset the green movement tried to stay outside the establishment. This has changed and as seen above at least in Finland and Germany they are a part of the political establishment. Their roots in popular activism are acknowledged by the Finnish Greens.²²⁹ Similar conclusions can be drawn in relation to NGOs. Through their work both within the UN and on national levels they have become a part of the business environment. They are not necessarily as connected with the establishment as the green parties but they are there and through coupling with society they have achieved legitimacy. At the same time as this provides for cooperation it may also weaken the NGOs. As collaborators they have to accept compromises and this is not necessarily a good thing for their autopoiesis in the long run.

There are a number of environmental discourses environmental NGOs can subscribe to. However, subscribing to the principle of Sustainable Development they can find a foundation in international law for their activities. That way they may become self-proclaimed guardians of the law. Here a distinction has to be made between firm law and soft law. What can be classified as firm national law, is governed by governments, and consequently enforced by governments. The principle of Sustainable Development is a result of international declarations and a part of international law but is it firm enough to enforce? There needs to be a breach of some sort on a principal level and this may be difficult to prove due to the vagueness of the principle. The vagueness, however, may be an advantage for NGOs. NGOs that believe businesses do breach the principle may refer to the principle and object to the behaviour of businesses. In fact, it seems to be easier for NGOs to react to breaches of

²²⁸ Swedish Green Party, http://www.mp.se/templates/Mct_177.aspx?number=68955, 26.07.2012.

²²⁹ The Greens of Finland, <http://www.vihreat.fi/english>, 23.04.2013.

soft law than breaches of firm law. In this case there is no competition from official law enforcers.

Luhmann concludes that if the protest movement is successful, it has to stop because of the lack of difference.²³⁰ This is the case when all the issues the movement is trying to affect have been solved or when the issues simply have moved onto the political agenda. In modern times protest movements have been legally incorporated and taken a more permanent form. One could argue that Oxfam is not a protest movement as they send money and clothes to the poor received from the public but they are making the public aware of a problem doing this. By helping the poor they do not solve the underlying problem. This is still something to be taken care of by politicians. It could be argued that NGOs have themselves become businesses. They do not serve the same purpose as “regular” businesses but there are nevertheless similarities. They communicate their functions in similar ways as businesses.

Observing the behaviour of organisations can be viewed in the same manner as when individuals are observed. Organisations in the same way as individuals see things based on their own contextuality. This is why an internal operation can only be based on what is inside the organisations. Even though organisations are operationally closed it does not mean they cannot observe what is happening around them. They are cognitively open and this makes it possible. The more businesses are being made aware of environmental and social issues the more they need to acknowledge this and adapt. However, for businesses profit making must always come first. At the same time the environmental, social and economic issues have to prosper simultaneously.²³¹

What is the character of movements like the Global Reporting Initiative (GRI)? GRI was set up by non-profit organisation called Ceres.²³² Behind Ceres are a number of investors, environmental organisations and other

²³⁰ Luhmann, N, 2008, p. 128.

²³¹ Some NGOs can be seen to subscribe both to environmental and social issues. Oxfam is an example of this.

²³² Ceres, <http://www.ceres.org>, 26.02.2013.

public interest groups. The purpose of the initiative is to standardise the way Sustainability is reported.²³³ Ceres was founded as a response to the Exxon Valdez oil catastrophe in 1989. The accident resulted in resonance and the NGO was consequently set up. The GRI was set up in 1997.²³⁴ Now the UNEP (United Nations Environment Programme) was also involved. The purpose of the organisation is also to inform businesses how to behave. The key is reporting. It is a voluntary scheme that can be said to cause resonance and affect the behaviour of businesses in the form of structural coupling. At the same time, businesses are shown how to do it. The Global Compact is another initiative set up by the UN in order to support human rights, labour rights, efforts to save the environment and anti-corruption.²³⁵

FTSE4Good and the Dow Jones Sustainability Index can be said to serve similar purposes as the GRI and other reporting initiatives. WWF has a reporting initiative as well. These are obviously not protest or social movements in the traditional meaning. The effect, however, seems to be that issues they think should be addressed are highlighted causing irritation among businesses.

Important NGOs for the forest industry are the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC). Both are independent certification organisations for forest certification. FSC has its origins in for example Friends of the Earth and the World Wildlife Fund For Nature (WWF) and the PEFC in forest owning individuals. The certifications compete with each other and nowadays the pulp and paper industry's view is that they are very similar.²³⁶

²³³ Ceres, <http://www.ceres.org/Page.aspx?pid=415>, 10.6.2010.

²³⁴ Global Reporting Initiative, <https://www.globalreporting.org/information/about-gri/what-is-GRI/Pages/default.aspx>, 14.12.2012.

²³⁵ UN Global Compact, <http://www.unglobalcompact.org>, 14.12.2012.

²³⁶ Interviewee 5.

A valid question is to ask what this flurry of reporting initiatives achieves. Does it change the behaviour of businesses or does it in fact in the long run conserve behaviour? The law according to Luhmann is there to stabilise the “normative expectations over time”.²³⁷ It is not there to direct society in any specific direction. At the same time, the initiatives could be said to be stabilising expectations over time but with the risk of standardisation as such becoming a hurdle in the long run if it means that it stops new measures from evolving. As mentioned above the competing forest certification organisations FSC and PEFC have become similar. It could even be argued similarity is a pre-requisite for difference. Is there only one correct method? Perhaps private forest owners trust the certification that originates from them rather than a system that originates from WWF and other environmental organisations. As will be discussed below the New Institutionalism supports the idea of isomorphism meaning that organisations converge and become similar.²³⁸ When looking at the differentiation of organisations I believe it is the difference between them that matters. These schemes, however, could result in a situation where mistakes embedded in the reporting system multiply and make the situation worse. Therefore, in order to work the reporting initiatives have to evolve over time. This way conservation of unwanted behaviour could be stopped from becoming permanent.

Teubner writes, “We have to speak of an external stimulation of internal self-regulating process which, in principle, cannot be controlled from the outside”.²⁴⁰ This means all that NGOs can do is to stimulate. They cannot control, even if they would like to, what actually happens inside another system. Businesses could ignore the attempt by NGOs to communicate. It seems, however, to be the case that there is an on-going discussion between NGOs and some businesses. An example of this is the case referred to in chapter 1. p. 4, where Greenpeace Finland and Stora Enso,

²³⁷ Paterson, J, 2006, p. 18.

²³⁸ DiMaggio, P, and Powell, W, 1983.

²⁴⁰ Teubner, G, 1984, p. 298.

one of the businesses studied, communicated with each other. The role of NGOs is to advise not to control. What can be discussed is where the fine line between “calling on sense of responsibility,”²⁴¹ and an attempt to control should be drawn? Greenpeace has been active in physically trying to stop businesses from doing things while other NGOs stick to informing businesses on how they think businesses should behave. Is this a version of social engineering Luhmann thought was not possible? - probably not. We never know the reaction in advance. If we knew, simple legislation could solve most problems.

Reflexive law is not a new law system but more of a philosophy.²⁴² Gaines and Kimber,²⁴³ refer to the three different self-regulating regimes as defined by Lyon and Maxwell.²⁴⁴ These are “(1) purely private, unilateral commitments, (2) public schemes in which private parties volunteer to meet standards established by public authorities, and (3) negotiated agreements, which come out of a dialogue between government authorities and private parties”. To this NGOs can be added. As we will see later, businesses and NGOs do enter into voluntary agreements of behaviour. NGOs have no official role to play at all but as we have seen above they are important not just as irritants but as organisations creating rules of behaviour in their own right. They have in the past participated in the making of international Sustainability Law and therefore have some knowledge in the issue. Some, or even most of the law is non-binding to its character. NGOs, however, have an interest in making sure that even what is considered to be soft law is followed.

Teubner highlights three aspects that would form the basis for “a law of ecological self-organisation using strong external pressures for internal self-regulation”.²⁴⁵ These are; firstly a critical view of technical achievements and the belief in those, secondly reflexivity, and thirdly

²⁴¹ Luhmann, N, 2008, p. 125.

²⁴² Gaines, S, and Kimber, C, 2001, p. 162.

²⁴³ Ibid.

²⁴⁴ Lyon, T, and Maxwell, J, 1999, p. 1.

²⁴⁵ Teubner, G, Farmer, L, 1994, p. 8.

legal institutions to support the process.²⁴⁶ NGOs are monitoring businesses causing irritation and in this sense they clearly fall within the definition. As discussed in chapter 6 all the studied businesses subscribe to the rules of FSC. There is a structural coupling between the FSC and the businesses, a result of a voluntary agreement as a consequence of pressure from outside the businesses organisations still based on the internal operations of the business organisations. All organisations will interpret the agreements in a similar but not identical manner.

The idea is for the public and private law to create the procedures for how "pure self regulation" can take place.²⁴⁷ NGOs, however, have no stated role in this. They merely have their own interpretation of what Sustainable Development is and based on that, pursue what they see as their mission. NGOs, whether they have been asked to do so or not, take a monitoring role. They are in this sense acting like the free press communicating a perception of what they believe is the right way to proceed.

Gaines and Kimber,²⁴⁸ propose a role for NGOs. The purpose is to create enough pressure on businesses to comply with the law. This seems to be what NGOs like WWF are doing. In the shaping of Sustainable Development Law within the UN, NGOs do not make decisions, they advise and have the opportunity to share their views. The same should apply in relation to the enforcement of the law. One thing is to monitor pollution where it can be concluded that rules have been broken, another is to have a view on what is sustainable and what is not. NGOs may make their views known but they should not try to stop things happening. That should be left for the courts.

Reflexivity and environmental law is a different creature from reflexivity and Sustainability. States can legislate about pollution. It is much more difficult if not even impossible to do the same in relation to Sustainability.

²⁴⁶ Teubner, G, Farmer, L, 1994, p. 8.

²⁴⁷ Gaines, S, and Kimber, C, 2001, p. 162.

²⁴⁸ Ibid. p. 174.

What is sustainable and what is not is always dependent on values. What is sustainable from an environmental point of view may not be so from a social point of view and vice versa. Reflexivity directing businesses in a sustainable direction is in this sense more realistic.

What is becoming common is for businesses to invite independent auditors to evaluate their Sustainability programmes.²⁴⁹ One can question how independent they are. After all they are paid by businesses. Perhaps NGOs could be invited to take the role of auditors? It would be difficult to agree upon how independent different organisations really are. NGOs do obviously not have the right as such to monitor businesses. On the other hand, it is not forbidden either. In practice they seem to do it in any case. In some cases NGOs could act as independent auditors for businesses. Whether the necessary trust would be found is another story. At the same time, a similar dialogue between regulators and businesses could result in some kind of mutual understanding.

Teubner suggests substantive law that gives a framework but reflexivity that at the same time gives law the chance to evolve.²⁵⁰ He mentions contract law and consumer law as examples of this. The way NGOs and businesses communicate could be likened to how independent parties negotiate contracts or how consumers' rights are regulated through ombudsmen. The purpose to be achieved through this is, however, questionable. Could NGOs and businesses achieve something that would be in line with what Parliament intended? Would businesses and NGOs not try to achieve as much as they can on the basis of their internal operations regardless of the purpose? Reflexive law is not about the "perfection of autonomy" nor "collective behavior"; it is about "coordinating recursively determined forms of social cooperation".²⁵¹ It is about steering. This makes it difficult to combine with autopoiesis that is

²⁴⁹ This is done by Stora Enso, one of the businesses studied.

²⁵⁰ Teubner, G, 1982-1983, pp. 276-277.

²⁵¹ Ibid, p. 254.

based on the system and its environment. The illusion of an invisible hand is there but it is just an illusion.²⁵²

What is the main difference between Luhmann's theory and Teubner's reflexive law? Is it a question of steering or actually the limits of steering?²⁵³ We know a law has an impact but not exactly what it is. We also know that agreements between different parties have an impact but do we know what it is? When competing in a 6mR class sailing boat,²⁵⁴ there are only a few limitations when it comes to equipment. This means the sky is the limit when it comes to try to improve it. If the rules were stricter and each boat would have to look exactly the same it would be up to the best team to win the race. As the rules are this is not the case. It is a combination of money and competence. It is the same situation in Formula 1 racing. There are some limits but it is the combination of technical competence, money and the driver that determines which team will win. Teubner's thinking is stricter than Luhmann's in that it sets restrictions, but in both cases we do not really know where we end up. In that sense a principle of Sustainable Development may be better than a strict set of rules. Businesses know, or at least they should know, that they should aim at a balance between the three pillars of Sustainability. How they do it is up to them and their environment. They cannot ignore their environment even though they do not have to take organisations like NGOs into consideration in a strictly legal sense.

Gilson concludes the problem with reflexive law is not that it would be unfeasible, but to find out how it would "be consistent with autopoiesis".²⁵⁵ He, however, brings forward the view that regulation as such is not impossible. The outcome, however, is not clear. Teubner,²⁵⁶ suggests reflexive law can equalise bargaining power but is this about directing or is it about stopping organisations from behaving in a

²⁵² Luhmann, N, 2013, p. 128.

²⁵³ Luhmann, N, 1997(b), pp. 41-57.

²⁵⁴ British International Six Metre Association, <http://www.6mr.org.uk>, 20.04.2012.

²⁵⁵ Gilson, CC, 2012, p. 177.

²⁵⁶ Teubner, G, 1982-1983, p. 256

particular manner? When it comes to Sustainable Development the principle provides some rules of behaviour but it is still up to the organisation to make decisions based on its own internal operations.

There is always the legal code that has to be adopted when dealing with legal issues. When we are looking at a code, understood by organisations, they should be in the position to comply. However, every communication would still be based upon the internal operations of the system in question. This should be the case especially if there is a fit between two systems, i.e. less pollution means reduced costs, more sales and increased profit. This fit, however, may be accidental and not a result of any legal stimulation. It could, however, be a result of reducing difference between the system and its environment.

When it comes to causing irritation there is a different need for control. Accountability of NGOs is important, but they are not accountable to the same constituency as for example businesses. They are merely accountable to their members. In case they go beyond that what is considered appropriate they will not be believed. "Crying wolf", will not work in the long run. Independent NGOs may well have more impact on how businesses behave than the state or states. This is perhaps the external stimulation Teubner is talking about. An example of where NGOs seem to have gone astray is organic palm oil plantations in Colombia.²⁵⁷ Because of what is happening in Borneo, where the rainforest is destroyed, organically grown plantations in Colombia, where the desert is cultivated, are also criticised. One reason rumoured is that rapeseed growers are supporting the move to get rid of competition.

Teubner building on Luhmann introduced the concept of reflexive law.²⁵⁸ The concept could be extended from regulation to monitoring and making organisations aware of problems. In a similar way there are simultaneous processes going on with the implementation of rules and

²⁵⁷ Discussion in Singapore 29.10.2011

Here the palm oil producer claimed he suffered because of the activities NGOs carried out in Indonesia to protect the rainforest.

²⁵⁸ Mingers, J, 1995, p. 211.

regulations. NGOs may fill the function of making business organisations aware of how their environment expects them to behave. This can take place in the form of coupling or irritation. What I have in mind is the study conducted on the implementation of Occupational Health and Safety within the British offshore industry.²⁵⁹ One of the problems is that the awareness created by NGOs is based on their own operations. Business organisations have to find their own methods of implementation. NGOs do monitor businesses and communicate anything they consider wrong to the outside world. They do not have to be right in their claims but what they do claim may cause irritation within businesses that can lead to a change in their behaviour. Overly extreme claims, however, or what is perceived to be too extreme may result in the NGO being ignored altogether. Not only NGOs may cause irritation. Lists like FTSE4GOOD,²⁶⁰ or the Dow Jones Sustainability Index,²⁶¹ may stimulate businesses to behave in a certain way resulting in structural coupling. Transparency is something brought in by NGOs. Transparency makes it hard to hide skeletons.

In discussing reflexive law, King is critical and referring to Luhmann concludes social engineering does not work, i.e. law is not a good way to improve social control.²⁶² NGOs on the other hand, can be said to be a result of resonance within the social system attempting to achieve if not

²⁵⁹ Paterson, J, and Teubner, G, 2005, pp. 215-237.

²⁶⁰ The FTSE4Good Index Series has been designed to measure the performance of companies that meet globally recognised corporate responsibility standards, and to facilitate investment in those companies. Transparent management and criteria alongside the FTSE brand make FTSE4Good the index of choice for the creation of Responsible Investment products.

http://www.ftse.com/Indices/FTSE4Good_Index_Series/index.jsp, 9.6.2010

²⁶¹ Launched in 1999, the Dow Jones Sustainability Indexes are the first global indexes tracking the financial performance of the leading Sustainability-driven companies worldwide. Based on the cooperation of Dow Jones Indexes, STOXX Limited and SAM they provide asset managers with reliable and objective benchmarks to manage Sustainability portfolios. <http://www.Sustainability-index.com/>, 9.6.2010.

²⁶² King, M, 2006, p. 46.

control, at least to make other organisations such as businesses behave according to the NGOs wishes and Sustainable Development Law. NGOs try to affect the decision premises of other organisations in order for them to meet the “normative expectations over time”.²⁶⁴ The origin of the attempt is situated inside the NGO, whereas the change in behaviour may or may not be inside the other organisation. In the business organisation the decision premises would have changed to accommodate the resonance caused by the NGO. This would not require a structural coupling and the business could just decide to ignore the NGO altogether.

This is not social engineering in the way King and Luhmann referred to it. This type of “social engineering” is a natural result of evolvement where the organisations in question adapt to a new reality in a sustainable manner, i.e. adaptation without destroying the system. It is not about steering, both from an NGO’s and a business organisation’s point of view we are talking about self-steering. If it looks like steering it has to be an illusion.

A loose legal principle may achieve more than a firm law whose effect would not be known until long after it has been properly implemented. An ambiguous principle does not bring in certainty but it may take the system in a more sustainable direction than a firm law would. Behaviour based on a principle can adapt to changes in the environment if it turns out that the behaviour did not achieve the result desired. A principle does not contain loopholes in the same manner that a law always does. This means that NGOs may attempt to rectify what they believe is wrong without changing the law. Here the presence of awareness seems to be a driving force.

²⁶⁴ Paterson, J, 2006, p. 18.

4.4. Poly-Contextuality, A-Centricity

To investigate how businesses and NGOs react to the legal principle of Sustainability requires a theoretical framework that accommodates not only the reality of businesses but also the reality of NGOs. In effect this results in a study combining legal aspects and organisational aspects.

Contextuality plays an important part in observing. Gotthard Günther lays the ground for the expression in the Aristotelian being and nothingness.²⁶⁵ Aristotelian logic is based on deduction. What keeps object and subject together generally ends up with being as the proof of objective existence. Being is seen as universal. The only way to distinguish being is nothingness. In effect something either is or something is not. The Aristotelian logic is mono-contextual. This way of thinking in effect excluded the subject and there was in reality no space for the observer. By introducing becoming in addition to being and nothingness Hegel made space for poly-contextuality. Günther goes on concluding that the thinking in one person cannot continue in another. Similarly, thinking within organisations is based on their own contextuality not on others. Contextuality is in itself not static; it is about becoming and is therefore evolving over time. This way there cannot be a universal truth or reality. What a particular organisation experiences as the truth is based upon its internal operational system. The organisation in question can react cognitively or through structural coupling but only based on its own operations.

Contextuality can be contrasted with bounded rationality introduced by March & Simon in the 1950s.²⁶⁶ Bounded rationality has its limitations in the observer. Poly-contextuality is based on different points of observation and not just points of observation but also points of self-observation.²⁶⁸ It is based on the self-observation of the organisation in question. Therefore, something the organisation may consider rational

²⁶⁵ Günther, G, 2004, pp. 1-15.

²⁶⁶ March, S, & Simon, H, 1958, p. 203.

²⁶⁸ Qvortrup, L, 2003, p. 106.

can only be rational for that organisation alone, not others. Consequently there cannot be such a thing as a general rationality. It is always bound by the organisation's internal operations. Contextuality should not be confused with relativity.

The three pillars of Sustainability are incommensurable.²⁶⁹ This means environmental Sustainability, as a part of a legal principle, has to be observed based on an environmental contextuality. Social Sustainability observed from a social contextuality and economic ditto from an economic contextuality. Poly-contextuality can be held to be a by-product of a-centricity.²⁷⁰ As a consequence the approach in this work has to be poly-contextual. At the same time, normativity has to be excluded. An organisation can react to its environment only through its own operations. Therefore there cannot be one normative way of thinking. Each organisation has its own way of behaving based on its own self-observation meaning whatever normativity there is, its interpretation will be unique.

Luhmann's organisation theory is based on decisions. The decisions bring forward the recursive character of Luhmann's organisation theory. This can be contrasted with the equilibrium sought in traditional Aristotelian approaches. There will always be a flow of decisions. If there is not, autopoiesis will come to an end. The flow is the being that explains the becoming.

"There is only one world for the observers, even if they observe one another – and hence there is perpetual conflict among them".²⁷¹ There is more than one reality out there based upon one world. In order to describe a perceived reality of one organisation, the reality of the surrounding ones also have to be taken into account. This way we end up with a number of realities. When we move, everything else will move as well. Consequently there is no *ceteris paribus*. A poly-contextual

²⁶⁹ Alder, J, and Wilkinson, D, 1999, p. 62.

²⁷⁰ Philippopoulos-Mihalopoulos, A, 2010, p. 177.

²⁷¹ Luhmann, N, 2002, p. 188.

approach can take the contextuality of all the organisations studied into account in the same way as it takes different function systems into account.

By creating sustainable solutions businesses may be able to change norms resulting in other businesses doing the same. Sustainable Development is not static. It is constantly on the move towards Sustainability. Even if the businesses studied would move in the same direction when it comes to Sustainability there is nothing stopping them from becoming different in other ways. The thesis shows that this is actually what is happening. Organisations are becoming similar and different at the same time.

At first glance one would have thought that the agreed declarations on Sustainable Development would have resulted in a common view on what represents Sustainable Development. The a-centricity of Sustainability, however, makes this difficult. Principle 1 of Agenda 21 puts human beings at the centre,²⁷³ suggesting an anthropocentric approach. Environmental NGOs, however, tend to subscribe to eco-centricity. Alder & Wilkinson state “eco-centric ethics are not always at odds with anthropocentrism”. They are “incommensurable” but “not necessarily uncombinable”.²⁷⁴ However, observing the strategies adopted by Greenpeace in aiming to influence the Nordic pulp and paper industry show the difficulty in combining the views.²⁷⁵

²⁷³ United Nations, *Report of the United Nations Conference on Environment and Development*, 1992.

²⁷⁴ Alder, J, and Wilkinson, D, 1999, p. 62.

²⁷⁵ The recent demonstration by Greenpeace in Helsinki (06.03.2009), (http://yle.fi/uutiset/news/2009/03/police_break_up_greenpeace_demo_at_stora_enso_hq_595397.html) may serve as an example. Greenpeace is accusing Stora Enso of buying 300 year old trees. At the same time, Stora Enso (<http://www.storaenso.com/Sustainability/Pages/Sustainability-start-page.aspx#reserves>) reserves a considerable amount of space on its website to Sustainability.

In the context of centricity it can be argued that Sustainability is a-centric. It aims at being anthropocentric and eco-centric and centred around the economy simultaneously. Recent research shows the difficulties environmental NGOs have in embracing anthropocentricity.²⁷⁶ They are after all environmental NGOs. In a similar way social NGOs are likely to embrace anthropocentricity. The same could apply to businesses putting the economy first. Solutions satisfying both people and the environment can be difficult to find. It may, however, be possible to rank options and choose the one that is the best for the time being. At the same time, it is likely that the views of businesses and NGOs will differ. Conservation of old forests may serve as an example. A business may think it is sustainable to cut the trees and replant while an NGO may think it is more sustainable to leave the forest untouched. On the other hand, fires tend to destroy forests at some stage in any case. They are not eternal.

Poly-contextuality gives the impression of multi centred systems. This is, however, an illusion of the system internalising "*its* society as its environment".²⁷⁷ As a consequence any other description of society becomes irrelevant.²⁷⁸ The system cannot see what it cannot see and this apparent centricity becomes evidence of the system being at the centre. As we will see below, the centric approaches taken on Sustainability, results in discrediting everything but its own centricity.

Gladwin, Kennelly and Krause have suggested sustain-centrism as a result of a paradigm shift.²⁷⁹ It could be that the way the debate is kept alive is the one-sidedness of NGOs. Businesses have to take all three pillars of Sustainability into consideration. NGOs can stick to what they were created for in the first place. This may look paradoxical, and perhaps this is the case, but the natural thing for environmental NGOs is to work for the natural environment, whereas as it is natural for social

²⁷⁶ Scherrer, Y, 2009, pp. 555-571.

²⁷⁷ Philippopoulos-Mihalopoulos, A, 2010, p. 176.

²⁷⁸ Ibid.

²⁷⁹ Gladwin, T, Kennelly, J, and Krause, T, 1995.

NGOs to support social issues. They are not there to support businesses but to stop them harming the environment and humanity.

Even if countries were to implement Sustainable Development Law, how can we tell it really is sustainable? Perhaps the answer is that we do not know and that Sustainability is not really implementable. There will always be differing views and this keeps the issue alive. Two opposing parties may push Sustainability in about the right direction. A combination of businesses, NGOs and regulators alike may be the solution when Sustainability is implemented. The pluralism this brings along should be seen as something good. All parties involved may be wrong from time to time and a system that allows for differing views keeps all alternatives on the agenda.

The appearance of Sustainability on the scene in the early nineties had its implications for organisational research. It was argued that the shift from an anthropocentric approach towards an eco-centric one had its problems.²⁸⁰ Purser, Park and Montuori discuss the anthropocentric bias in organisational research. They refer to Oeschlager,²⁸¹ claiming, “Anthropocentrism must be recognized and eradicated before fundamental changes can take place in people’s attitudes and actions toward the nonhuman world”.²⁸² They acknowledge the incommensurability between anthropocentrism and eco-centrism saying that they do not want to develop a compromise of “Sustainable Development”.²⁸³ This I would argue is in conflict with the principle of Sustainability that is to accommodate both social and environmental issues. I do, however, agree upon the incommensurability of anthropocentrism and eco-centrism. Sustainable Development Law involves both aspects and neither of them shall therefore be ignored.

It is interesting that even though the documents defining Sustainability are overwhelmingly anthropocentric compared to eco-centricity in their

²⁸⁰ Purser, R, Park, C, Montuori, A, 1995, p. 1054

²⁸¹ Oeschlager, M, 1991.

²⁸² Purser, R, Park C, Montuori, A, 1995, p. 1054.

²⁸³ Ibid. 1995, pp. 1054-1055.

character, anthropocentricity receives its death sentence in this way. Autopoiesis is not centric,²⁸⁴ as eco-centricity and anthropocentricity discussed below. I believe this kind of thinking is exactly what Barnhizer points at in his discussion on the impossible dream.²⁸⁵ It is not a realistic option for society to suddenly become sustainable. It may even be an impossible dream in the long run. In terms of profitability, it may well be the case that the most profitable solution is the one that embraces all three pillars of Sustainability. One should not forget that if customers do not approve of non-sustainable products there is not a lot of profit to be found among such in the long run.

Contrary to Purser, Park and Montuori who propose an Ecocentric Organisation Paradigm, Gladwin, Kennelly and Kruse in their article,²⁸⁷ argue for a paradigm of sustain-centrism. Accommodating what they call techno-centrism and eco-centrism they attempt to create a “union” between the two.²⁸⁸ Alder and Wilkinson’s comment highlights the problem with sustain- centrism. They stated “eco-centric ethics are not always at odds with anthropocentrism”. They are “incommensurable” but “not necessarily uncombinable”.²⁸⁹ How to combine the two, or actually the three if we add the economy, is the problem - not how to exclude one or the other. There can, however, be a direction towards Sustainability meaning that both environmental and social issues are considered when economic decisions are made.

As seen above, it is obvious that there are many organisation theories dealing with ecology. These, however, exclude the economy and social issues. Sustainable Development allows for anthropocentricity, eco-centricity and the economy to be simultaneously but independently present. Sustainable Development is paradoxical. Studying the “*The Evolution of Organizations and Natural Environment Discourse: Some*

²⁸⁴ Philippopoulos-Mihalopoulos A, 2010, p. 176.

²⁸⁵ Barnhizer, D, 2005-2006, pp. 595-690.

²⁸⁷ Gladwin, T, Kennelly, J, Krause, TS, 1995, pp. 874-907.

²⁸⁸ Ibid. p. 880.

²⁸⁹ Alder, J, and Wilkinson, D, 1999, p. 62.

Critical Remarks,²⁹⁰ Kallio and Nordberg conclude, “it is questionable, however, whether it is organizational environmental that has arrived or whether the discourse is in fact only a minor annex or a slight modification of the same old themes in management and organizational studies”.²⁹¹ Perhaps the focusing on the natural habitat has been the greatest obstacle in finding a way to integrate the ecology into organisation studies. Sustainable Development based on an a-centric approach could have a better chance to succeed.

4.5. The Observer and the Observation

Reality is observed by the distinction between the system and the environment.²⁹² Autopoiesis can be observed as events by the distinction before/after showing the structure of the system. Self-observation is needed in order for the organisation to be able to distinguish itself from its environment.²⁹³ This is done through the re-entering of the distinction into the system. Each new observation portrays a new perceived reality - perceived in the sense that reality is a result of the observation in the form of a distinction made by the observer. The self-observation, however, is quite an abstract phenomenon in Luhmann’s systems theory leaving the observer, in the case of organisations, in the role of an imagined observer of the organisation. When we observe ourselves, the observation and the observer end up looking the same. This conclusion was drawn by Spencer-Brown: “We see now that the first distinction, the mark, and the observer are not only interchangeable, but, in the form, identical”.²⁹⁴ It is the distinction that determines what we observe. At the same time, the distinction creates a blind spot, which is what we cannot observe without a re-entry.

²⁹⁰ Kallio, T, and Nordberg, P, 2006.

²⁹¹ Ibid. p 439.

²⁹² Banakar, R, and Travers, M, 2005, p. 28.

²⁹³ Luhmann, N, 2005(b), p. 55.

²⁹⁴ Spencer-Brown, G, 1979, p. 76.

We discussed above that the modern world according to Luhmann could only be studied as poly-contextural and through second-order observations, chapter 2.1 p. 12. In discussing observations, Maturana begins by stating, “anything said is said by an observer”.²⁹⁵ He could have stated, “anything observed is observed by an observer”. One can only observe from one perspective at a time.²⁹⁶ This is illustrated by Philippopoulos-Mihalopoulos,²⁹⁷ with the help of de Chirico’s paradoxical painting the *Piazza* in which a landscape is seen from two perspectives simultaneously, something that is obviously impossible. What is interesting is that it is not so much the observer but the observation and which distinction the observation is based on that becomes important.

Luhmann’s thoughts on the observer are based on Spencer-Brown’s writings on distinction. A distinction “both distinguishes and unites its two sides”.²⁹⁸ When the choice is made regarding which side of the distinction to observe the other side cannot be observed.²⁹⁹ The distinction becomes the blind spot. “God can know everything, but God cannot know everything God knows”.³⁰⁰ You cannot see what you cannot see. The consequence is that an observed event can only be discussed within the contextuality in which the event was observed. Regarding an organisation’s relation to Sustainability this means that an observation can only be seen in the light of what was observed at the time and this observation is always based on a specific distinction. Spencer-Brown shows this by looking at the globe from different places.³⁰¹

When we want to observe function systems, we try to approach it through organisations. This does not mean function systems are

²⁹⁵ Maturana, H, and Varela, F, 1980, p. 8.

²⁹⁶ Moeller, H, 2006, p. 74-75.

²⁹⁷ Philippopoulos-Mihalopoulos, A, 2010, the cover of the book.

²⁹⁸ Seidl, D, 2005, p. 47.

²⁹⁹ Ibid. p. 49.

³⁰⁰ Rasch, W, 2002, p. 19.

³⁰¹ Spencer-Brown, G, 1979, pp. 102-103.

observable as such but this is the way we approach it.³⁰² “The accountability of organisations makes the structure of function systems observable”.³⁰³ In organisations these observations can be made through decisions. This way what becomes more important than the observer is the observation and consequently the distinction. The observer influences the observation. The observer therefore cannot be excluded. The distinction made by the first order observation can be seen by the second order observation.

“There is no original spectator. There is no beginning there is no end. We always begin in the middle of something. And we only create in the middle by extending lines that already exist in a new direction or branching off from them”.³⁰⁴ An observation is also positioned in the middle and there will always have been an observation before and there will be one after. When Luhmann discusses the discovery of a reality he says, “When observers (we at the moment) continue to look for an ultimate reality, a concluding formula, a final identity, they will find the paradox” ... “He concludes “the world is observable because it is unobservable”.³⁰⁵ It can only be seen by distinction. Cary Wolfe draws on this in the introduction to Serres’s *Parasite*, the difference being that in Serres’s world the parasite takes the last position. He interprets Luhmann in this way: “the observer would be “parasitical” not because he is “last on the chain of observables”, but because the movement of observer attribution always flows in one direction, from second-order to first-order in a process whose “motor” or “engine” is the paradoxical de-constructability of any observation’s grounding distinction”.³⁰⁷ In Luhmannian terms the system, as the observer, would become the parasite, but what function does the observer play in this context? Who is the observer?

³⁰² Nassehi, A, 2005, p. 188.

³⁰³ Ibid.

³⁰⁴ Deleuze, G, 1983, p. 216.

³⁰⁵ Luhmann, N, 1995(c), p. 46.

³⁰⁷ Wolf, C, 2007, p. xxiv.

The comment below by Luhmann gives some clarity to “who is the observer?” question. “But then you have the question: Who is the observer? If it is a scientist, he or she can make theories and can see correlations, but if it's a frog itself, then things are different”.³⁰⁸ Here he refers to the experiment made on a frog where Maturana was involved. “Maturana talks about structural couplings and so on, but the frog as such constructs his reality as if it were outside, to solve internal conflicts. So, in this sense, the question is, why does a closed system like a brain need a distinction inside/outside to cope with its own problems, and why does it construct something outside that externalizes the internal problems of the workings of the brain, just to order his world, in which he himself is, of course, given?”³⁰⁹ Luhmann seems to be trying to get rid of the observer altogether. On the other hand, if that is done who is observing it all as a second order observation? Is it the frog's perception of himself? As debated above the perceived second order observation becomes a first order observation. The reality is constructed by the frog. The researcher can only get rid of himself by including himself in the observation/distinction. This way the distinction is what determines the look of the observation.

Both Luhmann and Varela argued that there could be self-referential systems based on a non-physical production.³¹⁰ Communication is not a physical production. Maturana, however, stressed the importance of observers, whereas Luhmann stressed the importance of the observation.³¹¹ Vanderstraeten refers to the same experiment as Luhmann above where Maturana was involved. It was concluded that the frog tested did not actually react to what it saw but through cognition based upon its internal operations in its brain.³¹² This would have been

³⁰⁸ Luhmann, N, 1995(b), pp. 7-36, 17.

³⁰⁹ Luhmann, N, 1995(b), pp. 7-36.

³¹⁰ Mingers, J, 1995, p. 141.

³¹¹ Ibid. p. 149.

³¹² Vanderstraeten, R, 2001, p. 299.

its own distinction, its own second order observation that became a first order observation when someone else observes him.

This showed the importance of the observer's internal operations when there is an observer, but how about a system like an organisation? If we ask a number of people how they perceive something and let us assume they perceive it in a similar way or can agree upon a perception, then the observation becomes more important than the observer. It is clear that someone has to perceive in order to create an observation but in this instance the actual observation clearly becomes more important than the observer. When I observe an organisation through a report, or an interview where the interviewee is describing his or her perception of the organisation, what I as a second-order observer observe, is a perception of an observation, an observation based upon a distinction such as Sustainability. What becomes more important than the observer is the actual observation; my second order observation based on my distinction and as we have seen above based on Spencer-Brown, the observer and the observation become identical.³¹³ This does not, however, exclude me as an observer, and the observation I observe becomes my observation based on my distinction.

The different views held by Maturana and Luhmann in relation to the observation and the observer is crucial to how we look at systems. Mingers points out that Maturana think new domains are born as a result of action between observers.³¹⁴ In Luhmann's systems theory it is not action that creates new domains, it is communication even if it can be dressed as action.³¹⁵ In this work I also apply Luhmann's writings on resonance as an explanation for how new domains are born. The resonance in turn is based on communication. Here human beings are needed as nutrition but the sub-system would not have been born without the resonance. It is difficult to imagine the observer in a system

³¹³ Spencer-Brown, G, 1979, p. 76.

³¹⁴ Mingers, J, 1995, p. 149.

³¹⁵ Luhmann, N, 1995(a), p. 164.

that lacks human beings. On the other hand, an organisation may through cognition have a perception of what the environment looks like. The observation becomes the important issue.

Leydesdorff's view is that Luhmann's reading of Spencer-Brown's book is incorrect.³¹⁶ Leydesdorff refers to the original book by Spencer-Brown, "An observer, since he distinguishes the space he occupies, is also a mark".³¹⁷ The observer and the distinction are identical. His view is that turning from second-order to first-order observer is confusing.³²⁰ It may, however, not be that confusing at all. When I observe, my observation becomes a snapshot of what I see both in time and in space. When the snapshot is taken I cannot see what is outside my observation and I cannot see my blind spot, i.e. the distinction either, without a re-entry and a new observation. My second-order observation becomes a first-order observation. Now, however, there is the suspicion of being observed,³²¹ and the knowledge of knowing that one cannot see what one cannot see.³²² This refers to the contextuality discussed above. Here the movement imbedded in the becoming can be found. The contextuality can be highlighted with the help of an example. I use John Boorman's film *Deliverance*,³²³ as an example because of the Sustainability aspect it allows for. The basic plot revolves around four men going on a canoe trip on a river. The city the men leave behind represents the social aspect and the river, soon to disappear as a dam is being built, represents the natural environment. One of the four persons on the trip loves nature and wants to get out of town into the wilderness. As an observer he represents nature. His observation includes himself and the others. What he sees apart from his townie comrades is the wild nature and the curse hanging over the river. His second-order observation will now become a first-order observation. He cannot change the observation without a new

³¹⁶ Leydesdorff, L, 2010, p. 159.

³¹⁷ Spencer-Brown, G, 1979, p. 76.

³²⁰ Leydesdorff, L, 2010, p. 161.

³²¹ Philippopoulos-Mihalopoulos, A, 2010, p. 102.

³²² Åkerstrøm Andersen, N, 2003(c), p. 68.

³²³ *Deliverance*, <http://www.imdb.com/title/tt0068473/>, 01.05.2013.

distinction. His contextuality will have affected what he saw. The other person who loved the city and perhaps thought the building of the dam would produce clean energy saw a quite different picture. His second-order observation becomes a first-order observation as well. What he sees is based upon a completely different contextuality. He cannot see outside it without drawing a new distinction. Here it is the observation seen as a snapshot that becomes more important than the observer. The observation remains as it is until a new observation, i.e. a new distinction is made. The observer and the observation become identical.

Environmental Sustainability has to be observed based on the environment, whereas social Sustainability has to be observed based on social issues.

Luhmann picturing the selection of management consultants provides a practical assessment of the process. How do client companies select management consultants? Luhmann refers to the issues around the blind spot and asks, "How well consultants know that which they can know"? In order to find out we need to choose an observer. The observer is usually according to Luhmann, the client company. The consultants are then chosen based on the distinction used, i.e. their blind spot.³²⁴ The choice is then based upon what the consultants cannot see. As a consequence I as the author take the role of the interpreter of the perceived observation. In taking the role of the observer of a business I step into the shoes of that organisation as if I were the organisation. Observing what the business sees or what I see the business seeing in relation to Sustainability differs from the way I see the situation when I step into the shoes of an NGO. In this case I am not interested in the individual. What I am interested in is to observe what decisions the organisation in question has made during a number of years. This does, however, not mean that individuals in the organisation in question would not be interviewed. These interviews conducted within the companies studied are second-order observations of their first-order observations,

³²⁴ Luhmann, N, 2005(d), pp. 363-364.

being a perceived observation of the organisation they belong to, reflecting the perceived observer.

In attributing a perceived observer to an organisation Luhmann takes the abstraction to another level in comparison to the quote above by Maturana, p. 90. It is also clear that an organisation includes people but it is as clear that that an organisation seen as a communication producing system does not include people. Contrary to what his critics seem to have concluded and as we will see below Luhmann included people in his organisation theory. What becomes clear in relation to the observer and the observation, is that the observation is important not the observer. As noted above the observer and the distinction become identical. The distinction is what determines what the observation becomes. What was Luhmann's solution to the problem with the observation and the observer? As indicated above the blind spot can be seen through self-observation and a re-entry. By re-entering into the system the observer can observe both sides of the distinction and see the distinction.³²⁵

In order to observe something we need to have a distinction of our own. Luhmann, as discussed in chapter 5 p. 113 suggested three distinctions of doing this resulting in - processual, structural and rational understanding.

4.6. What Autopoiesis?

Luhmann's approach to self-referential or autopoietic systems was inspired by the biological findings of the Chilean biologists Maturana and Varela. Luhmann, however, took self-referentiality to a different level by claiming that there were non-living autopoietic systems based on self-referential closure.³²⁶ The idea of non-living autopoietic systems has had some problems becoming accepted. Sticking to biology makes it difficult to accept non-human social systems as autopoietic.

³²⁵ Luhmann, N, 2013, p. 120.

³²⁶ Luhmann, N, 1990, p. 2.

A deeper understanding of the term and the self-referentiality it represents benefits from a comprehensive discussion on how the term originated. Luhmann's abstraction does not include life, as we understand it in daily life, not in the biological sense in any case. It does, however, include self-reproduction. In cybernetics again communication is included between both the living and machines.³²⁷ We do not have to define life at this instance. We can, however, conclude that communication is not life and does not have to be life in a biological sense.

In explaining how he ended up discovering the concept of autopoiesis, Maturana tells us that a medical student in November 1960 had asked him "What began three thousand eight hundred million years ago so that you can say now that living systems began then?"³²⁸ Promising to answer the question later Maturana realised he had to answer both what a living thing is and when it started. His research resulted in a definition of life based on biology. His work has been criticized in similar ways as Luhmann's later modification for social systems. "Biologists have frequently ignored the notion of autopoiesis and the theory of cognition that it supports (Maturana 1970 and 1980), because it does not seem to be pragmatic enough. Philosophers have frequently objected to it because it relates abstractions and pragmatics (Scheper and Scheper 1998)".³²⁹ The reference by Maturana to Scheper and Scheper relates to the view among philosophers that a "theoretical model" should be empirically testable.³³⁰

Maturana continues: "Finally I think that an epistemological difficulty that is commonly present is the mistake of using autopoiesis as an

³²⁷ New Oxford American Dictionary.

³²⁸ Maturana H, *Autopoiesis, Structural Coupling and Cognition*, Draft <http://www.iss.org/maturana.htm>, 3.11.2010.

³²⁹ Maturana H, *Autopoiesis, Structural Coupling and Cognition*, Draft <http://www.iss.org/maturana.htm>, 3.11.2010.

³³⁰ Scheper, W, and Scheper, G, 1996 p. 3.

explanatory principle”.³³¹ It only tells how something happens, not why. This may be a reason for the criticism of both Maturana and Luhmann. This did not stop Luhmann from trying to explain why. As we will later see he did through a new distinction where motivation was put on one side and rationality on the other.³³³

One problem for Luhmann seems to have been that autopoiesis in itself indicates the existence of biological life. Maturana was a biologist and it is therefore not a surprise that the type of self-reproduction he describes relates to biological life, as does indeed the question he got from the medical student quoted above. It is difficult to imagine the student asking a question in relation to non-biological life. He was after all a medical student. As discussed above the confusion could as such easily be explained by contextuality.

It seems that confusion does arise when sociologists try to observe an idea created by biologists as well as when biologists try to assess a sociologists abstraction of an idea. It does not cause any less confusion when sociologists try to criticise other sociologists using ideas created by biologists. In relation to Luhmann there even seems to be a desire to ridicule his work.³³⁴ The difficulty for different systems to understand each other seems to be the foundation for problems within society. The crossing of boundaries through structural coupling or cognition minimising difference seems to be the way of reducing problems within society. At the same time, this can be the embryo to new problems. It is interesting to see that biologists come up with similar critique in relation to Maturana as sociologists come up with in relation to Luhmann. Luhmann’s version of autopoiesis is not an explanation; it is more of a tool for observing communication. A tool that gives us the opportunity to draw conclusions, while it at the same time imposes limitations to the system.

³³¹ Maturana H, *Autopoiesis, Structural Coupling and Cognition*, Draft <http://www.isss.org/maturana.htm>, 3.11.2010. p. 18.

³³³ Luhmann, N, 2005(c), p. 105.

³³⁴ King, M, 2001, pp. 1-32.

In relation to Maturana and Varela's autopoiesis, Mingers concluded it an outstanding work based on neuropsychology and biology.³³⁵ Many sociologists seem to believe that autopoiesis has to be based on biology. It is true that the social system that excludes human beings is dependent on human beings in the same way as human beings are dependent on social systems, but it does not mean a system based on communication cannot exclude human beings. Without psychic systems there would be no social systems and visa versa.³³⁶ As I see it in this work it is not crucial whether what is called autopoiesis in social system really is life. What is important, however, is that the system is simultaneously structurally and operationally closed and cognitively open.³³⁷ Organisations are operationally closed but cognitively open. The system is affected by the external through structural coupling or cognition.

My conclusion in relation to the autopoietic debate is that a biological system is very different compared to a non-physical social system. As I concluded above whether the system is living or not is not crucial at this instance. This study does not require autopoiesis in a narrow sense. I subscribe to the fact that human beings are necessary to keep the unpopulated society as defined by Luhmann alive.

The issue whether a social system excluding human beings can be autopoietic or not is something that comes up over and over again in the critique regarding Luhmann's theory. The problem can easily be overcome by using the term metaphorically as done by Morgan.³⁴⁰ Referring to Morgan, Mingers concludes, "The results are merely metaphoric and have no greater claim on our attention".³⁴¹ He at least at that point in time (1995) saw social autopoiesis as "a highly debatable possibility".³⁴²

³³⁵ Mingers, J, 1995, p. 4.

³³⁶ Paterson, J, 1995, p. 213.

³³⁷ Maula, M, 2000, pp. 1367-3270.

³⁴⁰ Morgan, G, 1986, pp. 253-256.

³⁴¹ Mingers, J, 1995, p152.

³⁴² Morgan, G, 1986.

Varela's conclusion is that social systems are not autopoietic. They are, however, organisationally closed. Maturana's conclusion is that systems form a closed entity but that members of the system can come and go.³⁴³ The system in this way stays both open and closed. The way Luhmann excludes people by focusing on communication, is I believe an elegant way of explaining how something happens without adding too much complexity.

Neither Varela nor Maturana supports the view that social systems could be autopoietic. This could, however, relate to the situation in their home country, Chile, at the time. Maturana was forced to leave Chile because of the Pinochet regime. This is something Mingers refers to.³⁴⁴ They saw a risk that Pinochet could have used their theory in order to legitimise the dictatorship. Therefore it may have been convenient not to propagate autopoiesis as a social theory – a theory that could have been used to seek support for the monetarist economic policy developed by Milton Friedman and applied in Chile at the time.

Beeson concludes the way Luhmann abstracts autopoiesis into communication is elegant but that it at the same time abandons the biological foundation of autopoiesis.³⁴⁵ Here I believe he misses the point. By abstracting the concept it is possible to apply the biological concept on communication, without involving biology. There is no need to involve biology in communication. In this instance, it is the flow of communication that is interesting, not the people that may or may not surround it.

Luhmann himself referred not only to Maturana and Varela who thought social systems could not be autopoietic but also to Heinz von Foerster

³⁴² Mingers, J, 1995, p. 152.

³⁴³ Ibid. p. 211.

³⁴⁴ Ibid. p. 212.

³⁴⁵ Beeson, I, 2009, p. 198.

who had the same view. Luhmann's explanation for this was that he thought they could not see society in terms of communication.³⁴⁶

The use of autopoiesis as a theoretical approach on organisations is not widespread but it has been applied in organisational practice both in the public and the private sector. In studying one private company taking over the catering for elderly, Åkerstrøm Andersen found that the company had not realised the political side of the deal. It resulted in difficulties because of different codes. The company had to learn the political govern/governed code as well as government/opposition, and at the same time keep the economic code.³⁴⁷

What I brought forward discussing the observer and the observation was that the important issue is not the observer but the observation based on a distinction. The distinctions between different observations highlight the processual aspects of autopoiesis. Autopoiesis brings becoming to a sometimes static perception of organisation theory. This is something that relates to Luhmann's thinking when it comes to organisation theory. It is the process and how it relates to everything else that is interesting. Autopoiesis supports a shift from an individualist perspective towards a communal one.³⁴⁸

Luhmann was criticised for using autopoiesis as a fact. Luhmann answered this criticism by referring to his reading of Morgan, that all organisation theory is based upon metaphors.³⁴⁹ If all other organisation theories are based upon metaphors, why is it a problem if his own theory would not be more than just being a metaphor – he claimed? It is interesting how both Luhmann and Mingers refer to the same source supporting their thinking apparently having completely different views.

A valid point made by King & Thornhill is that Luhmann had developed thoughts around self-referentiality long before he came across Varela and

³⁴⁶ Luhmann, N, 1992, p. 1422.

³⁴⁷ Åkerstrøm Andersen, N, 2003 (b), p. 174.

³⁴⁸ Brocklesby, J, 2009, p. 161.

³⁴⁹ Luhmann, N, 2006(b), p. 49.

Maturana's work.³⁵⁰ Their discoveries certainly had an impact on Luhmann's thinking. It may, however, be the case that he would have developed his thoughts on self-reference in the same direction in any case. Varela and Maturana's work could have been just a neat way for Luhmann to develop his ideas. Through his career Luhmann borrowed ideas from other researchers to be developed further. It is not a surprise that he was met by criticism.

In this study autopoiesis is referred to metaphorically not as an absolute truth.

4.7. Autopoietic Organisation Theory

Autopoietic organisations can be defined as “systems made up of decisions, and capable of completing the decisions that make them up, through the decisions that make them up”.³⁵¹ This is the definition of organisations I use in this study. The definition is circular. “An Organization is a system that produces itself *qua* organization”.³⁵² Decisions are defined as “the way in which the organization differentiates itself and, by doing so, recognises what it is doing. No more, but no less”.³⁵³ Decision-making brings in the temporality of the theory. “Events are elements fixed as points in time. (...) They occur only once and once only in the briefest time necessary for their appearance (the “specious present”)”³⁵⁴ Nothing will be repeated. “It is always the communication that makes the former real”.³⁵⁵ Luhmann concluded, “that communication cannot be observed directly, only inferred”.³⁵⁶ It therefore has to be

³⁵⁰ King, M, and Thornhill, C, 2003 p. 278.

³⁵¹ Luhmann N, 2003, p. 32.

³⁵² Luhmann, N, 2005(b), p. 54.

³⁵³ Luhmann, N, 2005(c), p. 85.

³⁵⁴ Luhmann, N, 1995(a), p. 67.

³⁵⁵ Nassehi, A, 2005, p. 183.

³⁵⁶ Luhmann, N, 1995(a), p. 164.

“flagged as an action system”.³⁵⁷ The understanding of communication can be studied in the social, factual and temporal dimension.

What organisations produce through their decisions is communication. The communication of organisations consists of decisions and communication is a constitutive of organisation.³⁵⁸ This is something that was concluded by Weick in 1995.³⁵⁹ “If the communication activity stops the organisation disappears”.³⁶⁰ Weick’s definition of communication, however, does not match the one of Luhmann. Schoeneborn, however, concludes that Luhmann’s theory shares the view that communication is constitutive of organisation. (CCO).³⁶¹

Systems theory does not, as traditional organisation theory, presume rationality as the driving force behind organisations. In traditional organisation theory as put forward by March and Simon, the decision maker is served with a given set of choices to choose from. According to the theories, the decision maker knows the consequences of each choice (certainty) attached with a probability distribution (risk) or s/he concludes s/he cannot calculate the risk (uncertainty).³⁶³ Luhmann talks about decision premises setting out the rules for decision-making. When Luhmann talks about how decisions are made, it seems to be about de-paradoxication and the changing of decision premises. It looks like a process of finding excuses for the decisions rather than rational reasons. In order for something to become a decision it has to be completed temporarily, socially and factually. Decisions in Luhmannian terms are paradoxical. They are paradoxical in many ways. They are paradoxical because only un-decidable decisions can be decided. Luhmann refers to Heinz von Foerster who claimed that everything else would be a question

³⁵⁷ Luhmann, N, 1995(a), p. 164.

³⁵⁸ Schoeneborn, D, 2011, p. 663.

³⁵⁹ Ibid. p. 664.

³⁶⁰ Weick, K, 1995, p. 75.

³⁶¹ Schoeneborn, D, 2011, p. 664.

³⁶³ March, J, and Simon, H, 1958, p. 137.

of mathematics.³⁶⁴ Decisions are always reached retrospectively and decisions are in themselves decisions.³⁶⁵ Decision-making is not a rational thought-through activity. "It is a retrospective scheme of observation, dealing with the contingency and the paradox of decision making process".³⁶⁶ This means rationality is created or explained with hindsight in order to explain how a certain decision was made. If a decision needs to be unwound, the previous decision and the outcome is the basis for the new decision. This can be compared with other views on decision making that at least at the outset are being seen as rational, with some limitations added.

My research question attempts to answer what decisions have been made and what factors have been taken into account at the time of the decision in relation to Sustainability. The circumstances behind these decisions are of interest. Whether they were rational or not is less relevant. However, what lies behind the decision is interesting. What is sought is in a sense a historical account of what happened. The product of decision-making is a new decision-making premise affecting new decisions that in turn become new decision-making premises. In autopoietic organisations decisions are made based on decision premises. Each decision will form the base for the next decision. Previous decisions are always in the baggage. This is something that relates to contextuality discussed above. Any distinction made by an organisation will always carry its contextuality forward to its following decision. All previous decisions are constantly part of their structure. The decision premises can change based on structural coupling or through cognition or resonance. Irritation from the environment as discussed earlier can be a cause of this. This is also why autopoiesis is suitable for studying how Sustainability evolves. The decision premises may include an obligation to reflect on issues in relation to the environment (nature), social and the economy. The consequences of such reflections however, will never be

³⁶⁴ Luhmann, N, 2005(c), p. 86.

³⁶⁵ Åkerstrøm Andersen, N, 2003(a), pp. 246-247.

³⁶⁶ Nassehi, A, 2005, p. 186.

obvious. The organisation could always decide differently and it can only decide based on its own operations. Different contexturalities result in different operations. Even if decisions are changed the decision will still be part of future decisions. Again the contextuality of the organisation can be seen. The decision premises could be said to constitute the structure for the system. This is a structure that works more like a memory than a concrete structure as events only occur and exist as noted above for the briefest of time. The autopoiesis again constitutes the processual understanding of the organisation. Motivational aspects can be seen as the reasoning behind the decisions.³⁶⁷

In debating the system and structure Baecker³⁶⁸ argues that constructivism tries to attribute a memory to preceding events and a concern for future events. In order to clarify what happened the event needs to be deconstructed. In Luhmannian terms, the decision seen as an event becomes the structure as the memory for the next one. A question that is not answered is the one of memory loss. An example of re-creating the organisation with the help of retired personnel is the Norwegian Wilhelmsen Lines.³⁷⁰ Luhmann's systems theory does not seem to answer what happens when dementia struck. What happens if all employees in an organisation are replaced and not all of the memory is written down?

³⁶⁷ Luhmann, N, 2003, pp. 104-105.

³⁶⁸ Baecker, D, 2003, p. 206.

³⁷⁰ There is evidence of organisational memory. One of the most famous is probably the plane crash where most of the personnel of a Norwegian shipping company perished in a plane crash. By recruiting retired people who previously worked for the company the management managed to recreate the organisation within a short period of time. Without the ex-employees it could have been impossible. The name of the company was Wilhelmsen Lines.

<http://news.google.com/newspapers?nid=1291&dat=19890909&id=PP5TAAAAIBAJ&sjid=VY0DAAAIBAJ&pg=6663,2555430>, 27.07.2012

In the Norwegian case referred to above they were lucky to have some personnel left and a number of retired people they could ask to come back - but what if this had not been the case? It would probably have meant the end of the autopoiesis of the business but if enough memory was discovered later then perhaps it could be re-created. By re-employing retired people the contextuality of the company was at least partially saved.

There are three types of decision premises – programmes, personnel and communication channels.³⁷¹ There are two types of decision programmes, conditional and goal based.³⁷² The three premises are brought together in positions. The positions are filled by personnel, whose task it is to implement and communicate the programme.³⁷³ Here clearly human beings are present, not as part of the system but as bearers of communication. Human beings are psychic systems. Their reproduction is based on life. Organisations are social systems whose reproduction is based on communication.³⁷⁴ The three social systems, society, organisations and interactions live side by side as do psychic systems.

The research question of this study is, however, not only about decision-making based on what happens within the organisations. It is also about how that decision-making is affected by external factors and how it reacts to the principle of Sustainability. In Luhmann's terms, the organisation is a system. An autopoietic system has to be able to distinguish itself from its environment.³⁷⁵ The description given by Luhmann is not static. The organisation re-invents itself continuously. Luhmann's organisation theory and its relationship to traditional organisation theory are discussed below.

³⁷¹ Seidl, D, and Becker, K, 2005, p. 43.

³⁷² Luhmann, N, 2006(b), pp. 256-257.

³⁷³ Seidl, D, and Becker, K-H, 2005, pp. 43-44.

³⁷⁴ Seidl, D, 2005, p. 25.

³⁷⁵ Luhmann, N, 2005(a), p. 55.

As many times before, Luhmann borrows other researchers' findings. In the posthumously published book *Organisation und Entscheidung*,³⁷⁶ he criticises the purpose-driven starting point of organisations. Instead he borrows a concept introduced by March and Simon already in 1958,³⁷⁸ i.e. *uncertainty absorption*. Any decision made reduces the amount of uncertainty. On the other hand, a new situation brings new uncertainty that requires new decisions. Likewise the irritation discussed earlier may cause uncertainty, uncertainty that requires being absorbed. It could be that organisations try to adjust to their environment in order to minimise the itchiness of irritation at the same time as they try to create distinctions that organisations like NGOs are not interested in. In relation to organisations that can be seen as competitors, the distinctions may be drawn in order to create as much difference as possible. In Luhmann's words this could be the way an organisation "recognises what it is doing".³⁷⁹

One does not know what one does not know. Therefore not everything can be taken into account when decisions are made. Only what one knows can be taken into account. Therefore any rationality, even if it were present per se, cannot be more than bounded rationality. The retrospective character of decision-making makes it difficult to use in other ways than just that, in retrospect. In fact, there is in practice no decision-making pre the completion of the decision. What we treat as decisions, also the Luhmannian way of treating them, is just a result of a decision machine based on decision premises. The Luhmannian approach is constructivist. A decision made is always based on previous ones. If the old premises are to be ignored or neglected this in itself requires a new decision to be made.

In studying the Cuban Missile Crisis, Anderson discovered that the actual decision process put new goals on the table turning traditional views on its head. A new event resulted in everything having to be reconsidered

³⁷⁶ Luhmann, N, 2006(b), pp. 183-184.

³⁷⁸ March, J, and Simon, H, 1958, p. 165.

³⁷⁹ Luhmann, N, 2005(c), p. 85.

based on the new knowledge at hand. Those involved did not know beforehand what they did not know. Avoiding failure rather than success became the goal.³⁸⁰ This I believe translates into uncertainty absorption. Does this reflect a set of decision premises or rationality? The avoiding of failure looks very much like a decision programme of risk minimisation. If rationality is involved, then it always has to be adjusted according to new knowledge. That new knowledge does not cover everything because we do not know what we do not know. The difference between Luhmann's organisation theory and the bounded rationality suggested by Simon and March,³⁸¹ may be that Simon and March's presumption is that rationality is the driving force, whereas Luhmann's is that there never can be such a thing as rationality. This does not stop human beings from thinking they are de facto rational in their thoughts.

Eisenhardt and Zbaracki present the rational and bounded rational model as a situation where the objects are given and the consequences of any decision is measured against these objectives.³⁸² In this bounded rational model, cognitive limitations are recognised.³⁸³ This could also be interpreted as a decision programme. In the *Garbage Can Model of Organizational Choice*, Cohen et al.,³⁸⁴ show the unpredictability and complexity of decision-making in what they called "organised anarchy".³⁸⁵ The model is based on the assumption that there is a collection of choices to choose from. These choices are again searching for problems to solve. Luhmannian theory recognises the flip side of the coin. A decision could have been different. In this respect the theories share some resemblance.

The approach taken by modern organisation theory is quite different in relation to boundaries. Santos and Eisenhardt offer a set of four different conceptions of boundary: efficiency (cost), power (autonomy),

³⁸⁰ Anderson, P A, 1983, p. 201.

³⁸¹ Simon, H, and March, J, 1958, p. 203

³⁸² Eisenhardt, K M, and Zbaracki, 1992, p. 17.

³⁸³ Cyert, M, and March, J, 1992, pp. 215-216.

³⁸⁴ Cohen, M, et al., 1972.

³⁸⁵ Ibid. p. 1.

competence (growth) and identity (coherence).³⁸⁷ In efficiency terms they argue something can be produced either internally or externally and that boundaries of power are about control.³⁸⁹ Competence relates to the ability to use expertise to exploit the market.³⁹⁰ Identity begs for an answer to the question “who the organisation is”.³⁹¹ In Luhmannian thinking there is a boundary based on the system and its environment. Luhmannian systems theory is temporal to its form. It is “based on the distinction before/after”.³⁹² Therefore the structure never looks exactly the same. The structure is present in the form of expectations,³⁹³ or simply as a memory. When it comes to identity, it is created by the distinction made.

Luhmann did not draw on Simon and March only. He also connected to New Institutionalism. New Institutionalism also looks at the relationship between organisations.³⁹⁴ The starting point of New Institutionalism was homogeneity and isomorphism.³⁹⁵ New Institutionalism draws towards convergence, whereas Luhmann’s systems theory looks at distinctions.³⁹⁶ In discussing Luhmann’s systems theory and New Institutionalism Hasse highlights the “understanding of both internal process and external links” attributing this to systems theory. The integration of the two, he thinks, still needs to be explained.³⁹⁷ Instead of macro and micro, in Luhmannian thinking there is system and environment. The New Institutionalism could explain why businesses behave in similar ways but it may not necessarily explain how they differ.

New Institutionalism suggests that companies more and more resemble each other, especially if they are doing business in the same field. This

³⁸⁷ Santos, M and Eisenhardt K, 2005, p. 491.

³⁸⁹ Ibid. pp. 492,495.

³⁹⁰ Ibid. p. 497.

³⁹¹ Ibid. p. 500.

³⁹² Luhmann, N, 2005(a), p. 55.

³⁹³ Hernes, T, and Bakken, T, 2003, p. 1522.

³⁹⁴ Hasse, R, 2005, pp. 260-261.

³⁹⁵ Czarniawska, B, 2008, p. 776.

³⁹⁶ Hasse, R, 2005, p. 249.

³⁹⁷ Ibid, pp. 260-261.

may stem from political reasons, uncertainty or from professionalization.³⁹⁸ If all Pulp and Paper companies in a geographical area behave in the same way this would indicate that the reasons do not stem from the companies themselves but from the industry. However, from a Luhmannian perspective one would argue that autopoietic organisations could observe what happens around them and internally decide what external impulses they are to accept. In fact, the only way the organisation can do it is based on its internal operations. New Institutionalism may explain the similarities. Luhmann's systems theory may again explain the differences between the companies. I believe that differences are as important for the future of an organisation as the similarities.

The reasons for isomorphism could be reduced to uncertainty absorption. DiMaggio and Powell refer to March and Olsen in relation to uncertainty.⁴⁰⁰ This is based on the assumption that a similar set of circumstances i.e. a similar environment, produces organisations that look the same. "Organisational structures and processes converge when they respond to shared environmental forces".⁴⁰² On the other hand, the reasons could be internal, based on similar decision premises. Similar decision premises again could be a result of identical external circumstances. DiMaggio and Powell provide a number of hypotheses for why isomorphism occurs. The work of NGOs is not one of them. This is perhaps not that surprising, taking into account that their article was published in 1983. When it comes to Sustainability, irritation from the environment could have resulted in that the businesses studied would look the same. At the same time, they would need to look different in other ways. If they looked exactly the same there would be the risk that they would not be economically sustainable.

It can be concluded that Luhmann was inspired by, the work of Simon and March and the people around them and by the New Institutionalism.

³⁹⁸ DiMaggio, P, and Powell, W, 1983, p. 150.

⁴⁰⁰ March, J, and Olsen, J, 1976.

⁴⁰² Scott, T, 2010, p. 87.

However, as we have seen, the context to which he applies the ideas differs from the original thoughts. The communication produced by organisations is decisions. When comparing Luhmann's thoughts to anything else one has to keep in mind that it is a theory of communication. This must be kept in mind also when this research is utilised.

5. Observing Sustainable Development and Organisational Differentiation

5.1. Introduction

As we will see below, observing Sustainability and Organisational Differentiation in relation to decision-making, could be seen as a cheat where business organisations, based on the economy, behave as if they were organisations founded in other function systems such as law and social movements. At the same time, it may be the case that this is the only way for them to adjust to the simultaneous processes going on in society. These processes could be the result of attempts at political steering, results of spontaneity or both. I think the result is a combination of both where the law affects the outcome as much as the spontaneity of non-state actors. This conclusion, however, does not include predictability.

The data in this research are retrospective comprising decisions made among three business organisations over a nearly fifteen-year long period relating to Sustainable Development. The span of the period was dependent on the public material available. The oldest material is from 1998 and the most recent from 2012.

There is publicly available material - Sustainability and annual reports - on the business organisations covering the period. The main category of interest is decision-making within the parameters of the three pillars of Sustainability, covered in this thesis. What I focused on is what decisions had been made in relation to Sustainable Development within the businesses studied, and decisions in terms of function that the businesses communicated. This was the starting point for coding the data. First the Sustainability reports of the business organisations were analysed. The interviews were then conducted based on the sub-categories found in the Sustainability reports. The interviews were carried out during 2012 and comprised interviews with employees responsible for Sustainable Development within the businesses studied. With regards to the NGOs

studied I attempted to speak to the most senior person possible in each organisation.

The businesses are portrayed on a temporal basis. Each business organisation forms an individual case study. There is also a comparative element to the study. Finally there is an attempt to develop a theory on Simultaneous Processes of Sustainability. The comparative element is not a relative one but one based on similarity and difference. The analytical approach is explained below. It is not possible to identify and analyse all decisions made in relation to Sustainability during the period. The intention is to identify decisions or groups of decisions that have moved Sustainability further within the companies. In addition to Sustainable Development the evolvement of Organisational Differentiation of the businesses based on the function or functions of the businesses is studied.

I have not looked at causality, as would be the norm in comparative studies.⁴⁷⁷ The future is seen as contingent and therefore causality is not the aim even if there may be a causal relationship as such. I have looked for difference in the form of communication. The method of processing the material is organised around a number of queries that will be dealt with below. This means each business organisation is looked at for decisions made in relation to Sustainable Development in a retrospective manner. This is the way the study is “structured”. It is “focused” in that it only deals with specific areas of interest in this case Sustainable Development and Organisational Differentiation.⁴⁷⁸

“Organisations have emerged that are equivalent to function systems”.⁴⁷⁹ This quote by Åkerstrøm Andersen takes organisations to a different playing field than just thinking of them as mechanical decision-making machines. Decision-making can be seen as the function of organisations. The code, however, is not binary as it is for function systems. The basis

⁴⁷⁷ Ragin, C, 1987, p. 36.

⁴⁷⁸ George, A, and Bennett, A, , 2005, p. 67.

⁴⁷⁹ Åkerstrøm Andersen, N, 2003 (b), p. 152.

for how an organisation behaves lies with the decision premises. In terms of Sustainability, Sustainability has to be seen in relation to the differentiation of the organisation. How has the differentiation of the organisations developed over time? This view of Sustainable Development applies regardless of whether we are observing an NGO or a business organisation. “Equivalent”, as stated above is not the same as but something similar, something that can be differentiated from function systems such as law, the economy and so forth, but nevertheless serves as a function equivalent to a function system, without actually being one. Luhmann’s theory of social systems is based on difference. In this sense looking at the differentiation of an organisation in relation to function is not that surprising.

When it comes to Sustainable Development the organisation has to choose between following the economic system only or a mix of systems that allows for social and ecological issues as well. It is not as in the Colombian murder case,⁴⁸⁰ where a choice had to be made between the system of honour and the legal system. One could argue that the differentiation of a system is just an arbitrary outcome of events and it is true that whatever the differentiation is, it can change and so it constantly does. This could be through innovation or by borrowing from other organisations. There is some kind of motivation, will or idea that lies behind the differentiation. I believe it can be shown that the function communicated by the differentiation of the organisations I have studied, has drifted largely from what it was when the organisations were founded. The differentiation may be based on the organisation’s internal operations but the outcome may at the same time be influenced by what happens in the environment of the organisations. This is in contrast to environmental determinism that would end up in isomorphism.⁴⁸¹

The equivalent to function systems Åkerstrøm Andersen is referring to could in Luhmannian terms be defined as “the way in which the

⁴⁸⁰ Paterson, J, 1995, pp. 224-225.

⁴⁸¹ Scott, T, 2010, pp. 92-93.

organization differentiates itself and, by doing so, recognises what it is doing".⁴⁸² Luhmann's view was that purpose could not, as such, be seen as the end of an organisation. My reading of him is that he saw it as just a way for the organisation to deal with its environment in term of complexity reduction.⁴⁸³ However, in the Articles of Association of businesses it is determined what the company is supposed to do and usually there is some event that results in the company being established. In communicative terms, however, these Articles do not have to be reflected. I think any business can be observed by the distinction differentiation/decision giving the meaning of the organisation in the form of function. This is the communication of the organisation. Now it is clear that businesses can have a number of functions to fulfil and I subscribe to the view that function is just one way of dealing with the environment of the organisation.

If Hegel's thinking results in things appearing the same, and Wittgenstein tries to see the difference in what looks the same,⁴⁸⁴ the businesses studied are similar in that they have a background in forestry that nevertheless has allowed them to differentiate in different directions. I believe the difference is essential. One can, however, argue there needs to be similarity in order to be able to spot the difference, i.e. there needs to be convergence and difference simultaneously.⁴⁸⁵ Apples and pears are both fruit and can be distinguished from each other in a taxonomy of fruit. Sustainable organisations can be distinguished from each other based on their functional differentiation, not on Sustainable Development if they all subscribe to it in a similar manner.

"For Luhmann, functionalism refers to an essentially comparative approach which studies the possible relations between problems and solutions".⁴⁸⁶ Luhmann's view was that different function systems could

⁴⁸² Luhmann, N, 2005(c), p. 85.

⁴⁸³ Luhmann, N, 1968, pp. 179-201.

⁴⁸⁴ Moeller, H-G, 2012, p. 83.

⁴⁸⁵ Scott, T, 2010, p. 103.

⁴⁸⁶ Borch, C, 2011, p. 6.

find solutions for the same problem.⁴⁸⁷ In fact, a problem cannot be solved by one function system alone but a number of them are needed as can be seen in Luhmann's *Ecological Communication*.⁴⁸⁸ However, I believe this can also be done by organisations, organisations that can draw on all function systems. In essence, what I am arguing is that the businesses I have studied have found solutions to Sustainability based, not on environmentalism or on social responsibility, but on fundamental economic requirements. This can, however, be done only if the three elements of Sustainability become a part of the operations of the businesses in question. Otherwise it cannot work.

Political organisations are mainly connected to one function system. When we discuss business organisations the situation is different. Intuitively it seems somehow difficult for any business organisation, apart from the economic system, not to be connected to the legal and the political systems. Today the public sector buys services from the private sector and it would be difficult for the businesses not to take political values into consideration in their internal operations. Åkerstrøm Andersen defines organisations "...connected to several function systems without a predefined primary function system" as polyphonic.⁴⁸⁹ Polyphony allows for any organisation, both NGOs and businesses, to draw on function systems such as politics, but this does not tell us the reason for this. The differentiation of the business is decided by the organisation in question and can be whatever it decides. It can consist of one function or a number of functions and it can change over time. The paradox of Sustainability from a business's point of view probably results in the organisation connecting to a number of function systems simultaneously.

Function systems such as law, the economy or religion do not understand the code of other function systems. Because of the operational and

⁴⁸⁷ Borch, C, 2011, p. 6.

⁴⁸⁸ Luhmann, N, 1989.

⁴⁸⁹ Åkerstrøm Andersen, N, 2003 (b), p. 167.

structural closure this is impossible.⁴⁹⁰ For an organisation, however, it is possible to draw on any function system as long as its decision programme and premises allow for it. This is done in order to fulfil what becomes the differentiation of the organisation. The foundation of Sustainable Development is law. Sustainable organisations have made Sustainability a prerequisite of their differentiation. This means Sustainability can be one way for the organisation to differentiate itself from its environment but hardly the only one. Sustainability cannot be an end, but it can be a means to an end. Sustainability does not limit the organisations to draw on other systems as well. It may be interesting to highlight that Sustainability is not a product but a prerequisite of the way the sustainable organisation works. This could mean integrating the three pillars of Sustainability into all decision-making. As will be concluded later, Sustainable Development is not a way for business organisations to differentiate as other businesses become sustainable as well. In fact, Sustainability results in similarity rather than in difference.

Social responsibility for businesses can be viewed as an extended arm of politics, with the function of reaching “collectively binding decisions”.⁴⁹² There also is a relation between politics and social responsibility.⁴⁹³ Politicians are expecting companies to become responsible without it necessarily being a legal requirement. Likewise there is a relationship between law and social responsibility when businesses are legally bound to behave in a certain manner. I have attempted to approach organisations based on their differentiation giving them the freedom to draw on any function system. The differentiation is consequently not based on the function systems drawn upon. On the contrary the function based on the distinction differentiation/decision will determine this. The polyphonic organisation, however, allows the organisation to draw upon any number of function systems.

⁴⁹⁰ King, M, and Schütz, A, 1994, pp. 277-278.

⁴⁹² Åkerstrøm Andersen, N, 2003 (b), p. 167.

⁴⁹³ Ibid. p. 168.

Åkerstrøm Andersen writes: "In the polyphonic organisation it is not only up for decision by means of which code decisions are to be made. It is also up for decision which code the decision about code is to be decided by means of".⁴⁹⁴ In the sustainable organisation the code of Sustainability in the form of decision premise must be a pre-requisite. At the same time, the economy will also be a pre-requisite. That is why Sustainable Development is paradoxical.

A code in the form of a decision premise is decided upon. This code, however, is not stable; it will always change when a new decision is made. A new decision will always produce a new version of the decision premise to be followed. Sustainability may be interpreted in different ways among different organisations at different times. It may be the case that organisations tend to understand Sustainability in similar ways as time passes by. If this is the case it may be because of changes in the environment. Different contextuality results in different interpretations. It may be the case that organisations do not behave in a sustainable manner even though they think they do. If their view differs a great deal from the environment of the organisation then the organisation may feel uneasy because of the irritation this causes. In relation to meaning, the code changes all the time when businesses in order to communicate make new decisions. Consciousness is not there when it comes to social systems. Consciousness is something for psychic systems. Social systems, however, as do communicative systems communicate meaning. The organisation communicates information and utterance. Meaning is something that is constructed both internally and externally. Internally it is a question of the autopoiesis of the business. Externally it is interpreted by other organisations as communication.

Åkerstrøm Andersen,⁴⁹⁵ did not aim to present a new theory by introducing the polyphonic organisation. The objective was to create a way of analysing organisations. One question that I think Åkerstrøm

⁴⁹⁴ Åkerstrøm Andersen N, 2003 (b), p. 176.

⁴⁹⁵ Ibid p. 179.

Andersen touches on but does not answer, is what purpose this equivalence to function systems serves. In order to adjust to their environment, organisations may need to draw on function systems they have not drawn on before, or perhaps they have not been affected by before. What is it that determines this? Is it something that happens because of irritation in the environment that forces the organisation to draw on a certain function system or is it an internal insight without any foundation in the environment?

As discussed above, an organisation differentiating itself “recognises what it is doing”.⁴⁹⁷ This hints at an understanding, not only internal but also external in relation to its decisions. The decision programme will reflect this. The way businesses determine the meaning they communicate is a combination of internal operations and what is happening in the environment. This may be the reason why businesses are looking similar at first sight but differ after a closer look. The differentiation is also what will determine the economic success of the organisation. This might not directly relate to Sustainable Development but it is nevertheless crucial for the organisations being studied. Paterson and Teubner touch on the problem of organisations based on the economic system having to implement decisions based on law.⁴⁹⁸ There are simultaneous processes going on that have to be interpreted somehow regardless of whether the organisation is based on one function system or the other. The polyphonic organisation is able to deal with a number of codes. The interpretation, however, is always based upon the internal operations of the organisation.

A similar word to differentiation was coined by Richard Normann in the nineteen seventies with the “business idea”.⁴⁹⁹ The word intends to explain what the business is there for. Another way to explain “business idea” is to explain how the business makes money, through which

⁴⁹⁷ Luhmann, N, 2005(c), p. 85.

⁴⁹⁸ Paterson, J, and Teubner, G, 2005, pp. 215-237.

⁴⁹⁹ Bergqvist, T, 2000, p. 16.

differentiation. The function sought for in Luhmann's systems theory may be the equivalent to the business idea put forward by action theorists. What they sought for was a function based upon a product or service produced with the help of the personnel and their knowledge and organisational structure.

How should this Organisational Differentiation be compared to function systems such as law or the economy? Organisations re-invent themselves constantly. There is always the threat of other organisations trying to copy the neighbouring systems. In fact, it looks like organisations observe each other and try to borrow the bits that they think are the best. In a way the whole discussion about Sustainability is about trying to implement the same principle. Implementing the same principle should end up in convergence. The principle is not invented by businesses but if they want to become profitable because they are sustainable, and not despite being so, it is interesting for them to understand what their competitors and perhaps other companies do as well. If they all differentiate themselves in an identical manner Sustainability does not help them to survive. One can ask whether differentiation is the correct word at all. In order to be different they have to become similar first. Otherwise they cannot look different. This resembles the isomorphism propagated by New Institutionalism. Paradoxically, it can be said that organisations try to become similar and different at the same time. I believe it is the difference that proves to be the recipe for success when at the same time the organisation may have to propagate for Sustainability in order to position itself on the market.

In comparing organisations to function systems such as law and the economy, the function is stabilised based upon a binary code. When it comes to organisations the code is based on decision premises and these tend to change constantly. The way they change determines how they succeed in comparison to other organisations. The code or codes change constantly re-defining the organisations decision premises. Åkerstrøm Andersen mentions parasitic codifications, meaning that one function

system such as politics uses the code of the scientific. This is perhaps the fear Barnhizer,⁵⁰¹ has when he claims that business organisations will change the rules in order to fit into for example the rules for organic produce. If status quo suddenly becomes sustainable just because the rules are changed in order to adapt to the present then there has not been any move towards Sustainability at all. The purpose of this work is not to judge or propagate for morals of any kind. If this is how business organisations behave, and my research shows this, it is not for me to judge.

Where does this leave Sustainability? When it comes to Sustainability it is hard to see Sustainability as a purpose. As discussed earlier the three pillars of Sustainability are incommensurable but not uncombinable. This was the conclusion drawn by Adler and Wilkinson when discussing eco-centricity and anthropocentrism.⁵⁰² Organisations are able to combine the three pillars of Sustainability without blending them. Poly-contextuality allows for the three pillars to thrive independently. The ecological, the social and the economic systems do not have to take the other systems into account, only organisations do. Sustainability is a goal-based decision premise that takes the three pillars of Sustainability into account. Sustainability may be a goal based decision premise, but not a purpose in its own right. It may nevertheless be a pre-requisite for the survival of the organisation in question. This again is dependent on the environment of the organisation.

A sustainable organisation would find a balance between the three pillars of Sustainability and be connected equally to all of them, taking intergenerational equity and geographical equity into account. A sustainable organisation would be a result of decision-making that finds a balance between these. No one, or all of them, would be the primary system at the same time. Here a pinch of hesitation can be included – after all, if a company were not profitable it would have to terminate its

⁵⁰¹ Barnhizer, D, 2005-2006, pp. 595-690.

⁵⁰² Alder, J, and Wilkinson, D, 1999, p. 62.

autopoiesis in the long run. Paradoxically, there has to be a balance at the same time as profit comes first. My definition of polyphony would therefore allow for a main function system with others in addition to draw on.

As noted earlier Luhmann considered social movements to be a function system on its own.⁵⁰⁴ A business organisation could connect to social movements and it may be the case that this is actually happening, if not otherwise, then through other organisations that have their origin in social movements such as Greenpeace. It may be argued that Greenpeace is the result of social movements, but it has become equivalent to a business organisation in the sense that its Organisational Differentiation is based on conservation. When one issue is solved it finds another one. When it comes to funding, Greenpeace is dependent on donations but at the same time it can be argued it sells awareness in relation to conservation. If it were not successful and trusted it would not get any donations. NGOs are becoming like businesses nowadays as concluded in chapter 2.1 p. 12. Communicating with NGOs could be the way forward for business organisations in trying to understand issues in relation to Sustainability.

This work is about decision-making. The Luhmannian definition of decision-making means it is always retrospective. This is obvious when we think of it as communication. A decision is not communicated until it has reached its destination and even then the meaning may not be the same as was intended. Decision-making can be seen as the fulfilment of social expectations – temporal, factual and social. Temporal expectations relate to the point in time when something is decided, i.e. the closure of contingency. At the same time, as contingency is closed, new contingency will be created. Social expectations relate to the distinction us/them and the factual expectations to what the decision actually is.⁵⁰⁵ Why this and not the other? The business may choose one production method and not

⁵⁰⁴ Moeller, 2006, p. 32.

⁵⁰⁵ Åkerstrøm Andersen, N, 2003(a), p. 244.

the other. Only when all three expectations have been fulfilled can we talk about a decision having been taken and communicated. When this happens the possibility of choosing another method is closed. To bring back one of the excluded options would require a new decision. In *Die Gesellschaft der Gesellschaft* Luhmann talks about “die Sozialdimension” relating to communication and media, “die Zeitdimension” relating to evolution/time and “die Sachdimension” as relating to factual differentiation.⁵⁰⁶ This is the basis for how to observe society based on Luhmann’s systems theory.

This could be criticised for being too thin and that people are not taken into consideration. In this work the issue has been to find out about decisions in relation to Sustainability taken over a long period of time. It is not about the behaviour of individuals, it is about the behaviour of organisations. In this case it seems to be a workable solution. The interesting issue is not to follow the individual human being, but what decisions have been taken for whatever reasons. This means the issue relating to why human beings are not part of society, but belong to the environment in Luhmann’s systems theory, does not have to be debated, only mentioned. What is needed in relation to decisions and people is to know whom the decision concerns and where in the organisation the final word is to be found.

Observing the Nordic Pulp and Paper industry and NGOs means what is looked for is when, what and whom the decisions concern, not what private individuals have done in order to make a decision.

⁵⁰⁶ Luhmann, N, 1997(a), p. 1137.

5.2. Distinctions

It could be argued that Sustainability could be seen as being a passion in a similar way as Luhmann attempted to do in *Love: A Sketch*. In the same way as love has different meanings, Sustainability attempts to find a balance between three incommensurable passions.⁵⁰⁸ The uniqueness of sustainable passions is grounded in the contextuality of the organisations. For the researcher making his observations based on second order observations there will always be a discrepancy between his and the organisation's observation. This seems to be the case especially when it comes to motivational/rational understanding. The second order observer can see the blind spot that is not visible to the organisation. Luhmann writes "truths emerge conjointly but error in isolation."⁵¹⁰ Truth in this case is a social construction. The reality observed by one organisation is not the same reality as the reality observed by another organisation or a researcher or anybody else based on a second order observation of the organisation in question. From the observer's point of view the reality may be a truth but whether it is a universal truth is another question. This has to be kept in mind when determining whose reality we are observing. Observing three organisations I looked at three realities, My observation became a second order observation based on their individual realities.

Can Sustainability be measured in quantitative terms? It can but this work does not look for quantitative measures as such. Businesses, however, do measure their pollution and social efforts in quantitative terms. Less pollution even if measured in quantitative terms is qualitative. What we are looking for is the direction the studied businesses are heading in. Are they becoming more or less sustainable? The intention is not to prove how much money business organisations make with the help of Sustainability. It is, however, interesting to

⁵⁰⁸ Luhmann, N, 2010, p. 12.

⁵¹⁰ Luhmann, N, 1995(a), p. 58.

conclude whether Sustainability is profitable or not and to what extent the businesses themselves believe it is. Sustainability should result in better management of resources but if all actors in an industry behave in the same way there will be no competitive advantage for them – it would be more like a lack or disadvantage if they do not become sustainable. I concluded above that businesses are the best option for society to advance sustainable behaviour. They are the only ones who have the resources needed. Sustainability is not something that can be handed out as a subsidy. This is obviously my private speculation and view. From a systems theoretical point of view it is clear that it would be as difficult for politicians to run business organisations as it would be for NGOs to run a paper mill. At the same time, it may be the case that business organisations need the knowledge of NGOs in order to run their business in a sustainable manner.

Not complying with sustainable behaviour may result in higher costs in the sense that if business organisations do not behave in a sustainable manner they could be targeted by NGOs like Greenpeace. It is not necessarily the case that sustainable behaviour increases costs. It could well be the cost of trying to avoid it. The involvement of NGOs within the UN resulted in issues put on the agenda that would perhaps not have ended up there otherwise.⁵¹¹ In a similar way, communication between NGOs and businesses could result in businesses and NGOs agreeing, and if not agreeing, so at least finding out the reasoning behind the views of both parties. This type of communications is possible between organisations and has happened.

The material obtained from the Sustainability reports and the interviews were approached by three distinctions addressing decisions taken in relation to Environmental, Social and Economic Sustainability. These were suggested by Luhmann, and resulting in Structural, Processual and Rational understanding.⁵¹² There is a fourth distinction, which is inspired

⁵¹¹ Rettig, H, 2008.

⁵¹² Luhmann, N , 2005, p. 93.

by Åkerstrøm Andersen namely Organisational Differentiation resulting in functional understanding.⁵¹³ As such, organisations in systems theory lack goals. What we are looking at is, as concluded above, how an organisation from time to time “differentiates itself and, by doing so, recognises what it is doing. No more, but no less”.⁵¹⁴ This is made through my second order observation of the organisation. The basis for the approach is the social, temporal and factual dimensions of decision-making.

Communication cannot be observed, only inferred.⁵¹⁷ “To be observed or to observe itself, a communication system has to be flagged as an action system”.⁵¹⁸ The observer becomes the subject and the observation the object. By re-introducing the subject/object the system can be indirectly observed. This way a communication system looks like it were a system based on action. In this case we are observing organisations based on decisions. The decisions again are observed based on, as presented below, three distinctions; decision premises in order to understand the produce of recursive decision making, autopoiesis in order to understand the process, and motivation in order to understand how the environment is involved in the decision-making without having any direct impact on the operations. This way we can introduce a subject and an object into the discussion. This way we avoid the un-observability of systems.⁵¹⁹

Below I present four distinctions in relation to what the system looks like structurally, what it looks like from a processual point of view, the rationale that lies behind its decisions and last the Organisational Differentiation giving the function or functions of the organisation.

The first distinction relates to the structural understanding of the organisation that can be derived from decisions previously taken. Every

⁵¹³ Åkerstrøm Andersen N, 2003(b), pp. 151-182.

⁵¹⁴ Luhmann, N, 2005(c), p. 85.

⁵¹⁷ Luhmann, N, 1995(a), p. 164.

⁵¹⁸ Ibid.

⁵¹⁹ Luhmann, N, 2005 (c), p. 46.

decision is affected by the decision premise present - at the same time decision premises change by new decisions. The decision premises in this way become the structure of the organisation. In terms of deparadoxication this means contingency has been fixed in time, socially and factually.⁵²⁰ This way the distinction is drawn between the decision premises and the decision.⁵²¹ This distinction in turn gives a structural understanding. (See figure 1 below). Note that it is a question of an understanding and not *the* understanding. The understanding as such will always be determined by the observation. What are the decision premises going to look like? That is known when the uncertainty absorption takes place. The decision premises have now changed. The decision could relate to programmes, personnel and communication channels. When it comes to decisions and environmental issues - as we will see - the goal based programme is often tightened in that the company will accept less and less pollution.

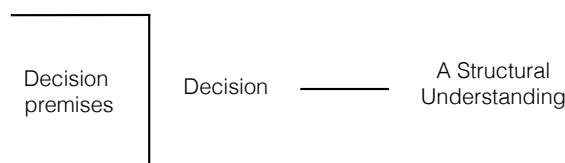


Figure 1

This triadic structure can be compared to the one of signifier, signified and sign. Here the distinction decision premises/decision gives a structural understanding of the organisation. Another way would be to see it as the information, utterance and what is the produce of any organisation, which is meaning.⁵²²

The second distinction that is parallel to the previous is uncertainty absorption and relates directly to autopoiesis, meaning that a decision is

⁵²⁰ Åkerstrøm Andersen, N, 2003(a), p. 250.

⁵²¹ Luhmann, N, 2005(c), p. 104.

⁵²² Luhmann, N, 2013, p. 215.

fixed in temporal terms.⁵²³ If they were not, the organisation would collapse. Uncertainty absorption portrays a processual understanding of the organisation looking for the inferences drawn by the organisation based upon some evidence. “Uncertainty absorption takes place, we can therefore say, when decisions are accepted as decision premises and taken as the basis for subsequent decisions”.⁵²⁴ This means contingency is fixed in relation to the past but open through the new possibilities brought forward by the decision.

The combination of processual and structural understanding brings forward the assumption that structure and process interact.⁵²⁵ The structure is the basis for decisions and uncertainty absorption the point in time when a new decision becomes part of the structure. In order for a decision to have been made temporal, social and factual deparadoxication needs to be achieved. Otherwise there would not be a decision. Here the distinction is drawn between uncertainty absorption and decision. (See figure 2 below). Inferences are drawn based on a set of evidence. For example, conclusions could be drawn that a Resource Management System is needed and a decision is made. Why? – It could be because of external irritation and/or for internal reasons in order to stop wasting resources.

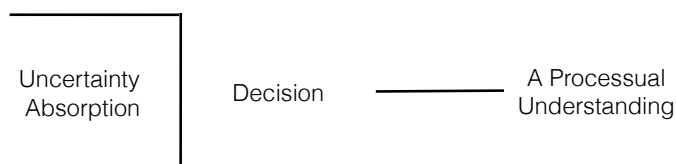


Figure 2

Rationality and motivation relates to how the environment constructed by the organisation in question is present in the internal decision-making of the organisation. The organisation is cognitively open but operationally and structurally closed. This means that what happens,

⁵²³ Luhmann, N, 2005(c), pp. 104-105.

⁵²⁴ Ibid. p. 96.

⁵²⁵ Hernes, T, and Bakken, T, 2003, p. 1511.

happens inside the organisation without interference from the environment. Motivation is “a term that describes how the environment is involved in the internal operations without, however, being able to contribute operations itself (=motivation)”.⁵²⁷ Here the distinction is drawn between decision and motivation giving the rationale of the decision. (See figure 3 below). This rationale is obviously an internal construction. At the most we can talk about bounded rationality as discussed above,⁵²⁸ in chapter 4.4 p. 84, because the organisation cannot know what it does not know.

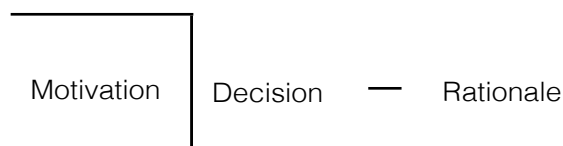


Figure 3

In Luhmannian systems theory only communication communicates and systems do not communicate with each other. They do, however communicate about each other.⁵²⁹ Organisations, however, are an exception to this rule. Organisations are cognitively open but operationally and structurally closed. This means communication is possible but not at an operational level.⁵³⁰ This may be what those not familiar with Luhmann’s thinking have difficulties to understand and accept. This communication means that the motivation for how organisations attempt to position themselves will always be based on speculative communication about other organisations, even though communication in this case is possible. This gives organisations the opportunity to position themselves in functional terms taking both the external and internal into account.

⁵²⁷ Luhmann, N, 2005(c), pp. 104-105.

⁵²⁸ Simon, H, and March, J, 1958, p. 203.

⁵²⁹ Åkerstrøm-Andersen, N, 2003 (c), p. 81.

⁵³⁰ Luhmann, N, 1997(a), p. 834.

Communicative meaning or meaning,⁵³¹ is based on the Organisational Differentiation of the organisation, i.e. function. The distinction here is made between decision and Organisational Differentiation giving its meaning in the form of function. In effect what we are looking for is what is the business of the organisation. (See figure 4 below).

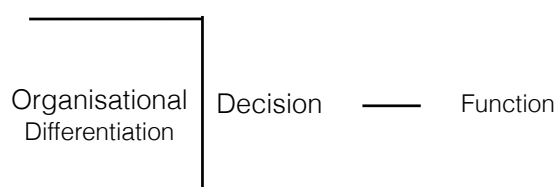


Figure 4

“Meaning is not an image or a model of complexity used by conscious or social systems, but simply a new and powerful form of coping with complexity under the unavoidable condition of enforced selectivity”⁵³²

These four distinctions were the basis for the observations.

The Sustainability reports are the foundation for the topics covered in the interview guide. “The guide may merely contain some topics to be covered, or it may be a detailed sequence of carefully worded questions”.⁵³³ Kinsey concluded that open questions gave the fullest answers while standardised questions do not give standardised answers because the same question means a different thing to different people. In the interviews the questions were open ended. The analysis of the interviews was based upon the categories found. Concept driven coding are defined in advance.⁵³⁴ In this case the initial categories were found in the Sustainability reports.

As concluded, according to Luhmann the world can only be observed as second order observations. Here the observation is important not the observer. When we come to analysing an interview it is apparent that

⁵³¹ Åkerstrøm-Andersen, N (c), 2003, pp. 72-74.

⁵³² Luhmann, N, 1990, p. 84.

⁵³³ Kvale, S, and Brinkman, S, 2009, p 130.

⁵³⁴ Ibid. p. 202.

different interpreters have their own interpretations.⁵³⁵ Therefore the interpretation will always be the one of the observer. The observation is mine as is the distinction. “We see now that the first distinction, the mark, and the observer are not only interchangeable but in the form, identical”.⁵³⁶ It becomes a construction of the observer. The intention is not only to observe the meaning of what is said; rather, the intention during the research, was to compare the three pulp and paper companies in order to find similarities but also dissimilarities.

Based upon a retrospective comparison a theory is developed. What is important is that whatever style of approach is taken it is consistent. Another important issue is that I presume that the businesses aim to present their attitude in as positive a way as possible. It is contradictory but the best option is to make the best effort of being contextual knowing that I as the observer will always affect the outcome. As long as there is consistency this is the best option.

The interpretation has to be seen in context of the Organisational Differentiation of the businesses. It is as important to look at what is said as what is not said. This is especially interesting when it comes to the temporal comparison. Reading the text in relation to the stated objective, purpose or the function of the business sets the text into a contextual position. When it comes to organisations they are caught by the bounded rationality discussed above and “they cannot see and deconstruct what they cannot see”, however, during a crisis the foundations of the organisation can be shaken and the “deconstruction can become deconstruction”.⁵³⁷ In effect through irritation and coupling the organisation can see what it could not see before.

The initial research showed some specific topics of interest in relation to environmental, social and economic Sustainability. Important within the organisations studied in relation to environmental Sustainability were

⁵³⁵ Kvale, S, and Brinkman, S, 2009, p. 211.

⁵³⁶ Spencer-Brown, G, 1979, p. 76.

⁵³⁷ Fuchs, S, and Ward, S, 1994, p. 495.

water, chemicals, forests, energy, control and assurance. In relation to social Sustainability, health and safety, employee relations and community involvement were important. In relation to economic Sustainability shareholders, stakeholders and the internal economic result were important. Other interesting areas were external verification, external organisations like competitors, NGOs and other organisations. Likewise, different reporting systems were of interest as was the differentiation of the businesses the companies are involved in. Is it based on one raw material, in this case wood or something else? This can be about becoming different in relation to competitors as well as holding a more favourable social position. In many ways Sustainability may be an issue that makes businesses look similar, Organisational Differentiation may be what makes them different. This makes businesses similar and different at the same time.

Part III

Observations and Analysis

6. Observing Sustainable Autopoietic Organisations

The discussion below is based upon a number of decisions communicated by the observed businesses, regarding environmental issues, social issues and economic issues. In hindsight, it appears the decisions covered demonstrate how Sustainability has evolved. The observations show a clear path, a timeline before and after, for how Sustainability has evolved, representing a processual and a structural change. In addition some contextural aspects of Sustainability will be discussed.

The picture below shows the evolvement of Sustainability from something concerned with the natural habitat to a system managing sustainable management. (See figure 5 below). At the outset, after Rio 92, environmental issues were regarded the most important even though social ones are mentioned. Later, social issues became as important as the environmental ones, followed by the insight that economic issues are a part of Sustainability as well. When the three pillars of Sustainability are recognised the next step has been the way they are managed. This way Sustainability is integrated into the daily operations of the businesses *and* becomes a part of their business models. In effect a resource management system is created. The intention is to show how and when the structure of the decision premises has evolved. In chapter 7 p. 168, their motivations are discussed. Where Sustainable Development drives businesses into the same direction, very much based on EMAS (the European Eco-Management and Audit Scheme), ISO (International Organisation for Standardisation), the Global Reporting initiative and the Global Compact and other NGOs i.e. their environment, it is their distinctions based on Organisational Differentiation that make them different. Organisational Differentiation of the businesses is discussed in chapter 8 p. 200.

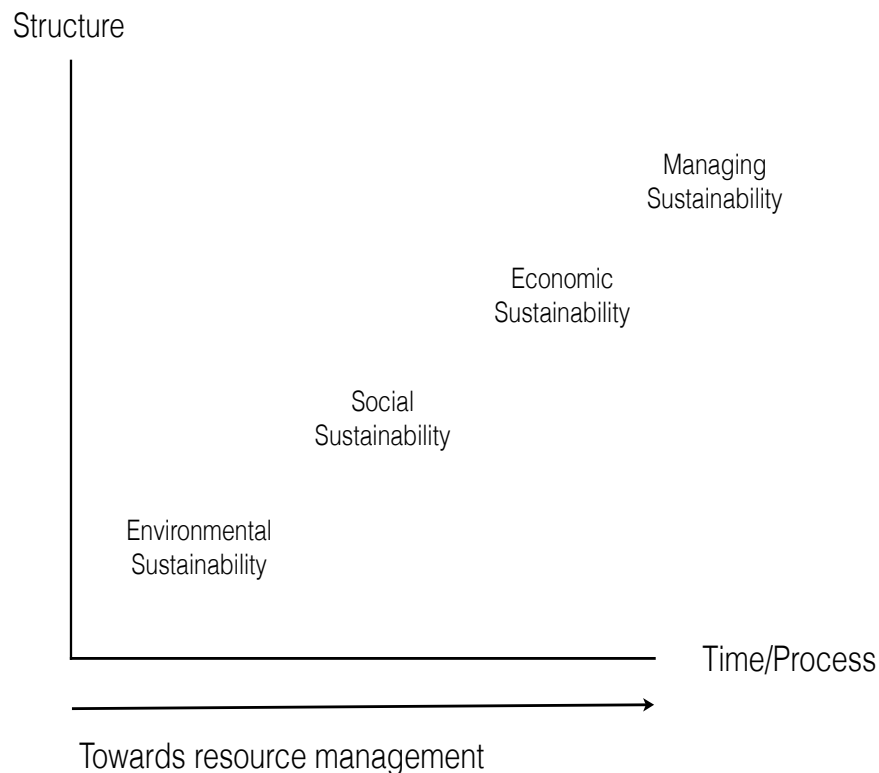


Figure 5

The presence of reporting schemes such as EMAS and ISO14001 have given companies a starting point when implementing Sustainability. Without the reporting systems it would have been difficult for businesses to compare how Sustainability is implemented in other businesses. There is a structural coupling between the businesses and these regimes. The absence of guidelines would have made it demanding for businesses to know what to do. After all, the pulp and paper industry did not have the environment or even social issues among their core values even though they already in the eighteen-hundreds provided for health care and education in the local communities they were present. A lack of reporting systems could have stopped businesses from implementing Sustainability programmes. It seems like Sustainability is not something they themselves have sought to apply. On the contrary there has been some irritation through NGOs causing resonance and structural coupling

through law and voluntary programmes. One issue regarding the continuing evolvement of reporting systems is the complexity added. Could the complexity make it difficult for new competitors to enter the market? Could it result in just a few businesses controlling each industry with oligopoly as a result? These are relevant questions but not part of this work. It is also important to keep in mind that the reporting systems are just tools that help businesses. They do not as such guarantee sustainable behaviour. One could question whether the use of the same reporting systems will be sufficient in the long run. Could it even be harmful? In case they are followed and where there are flaws in the system, everybody will make the same mistakes. On the other hand, the reporting systems are not static but evolving systems as well.

This discussion attempts to be longitudinal based on my second order contextual observations of the organisations. I expected to find and I did find three not entirely different stories.

6.1. Caring for the Environment.

The starting point of this work is that Sustainability is not static but something evolving. Sustainability can also be seen as a paradox in that it challenges traditional assumptions that businesses do not want to spend money on protecting the environment or social issues because of the costs involved. It is just not profitable. The conclusion would be that Sustainability is not possible because of the costs. The argument could, however, also be that *not* implementing a Sustainability programme would be too costly because of all the problems with the organisation's environment. This could be in the form of NGOs protesting or consumer groups trying to disturb the operations of the organisation, or when customers have ceased buying a company's products. The paradox of Sustainability can be seen as a way of making more money by protecting the environment and caring for social issues. The evolving character of Sustainability comes to the open when we look at how it has been

implemented. In Luhmannian terms there is a structure and a process to build upon. Comparing Sustainability reports from the late nineties with those of today shows this. It is not a product a business can buy off the shelf but something that has to be learnt and experienced, something that becomes a part of the decision premises of an organisation. At the same time, it seems that voluntary legislation and other voluntary schemes have played an influential role. According to systems theory, any solution to Sustainability has to be built on the system's own operations.

There is a EU waste directive telling businesses what to do with their waste.⁵³⁹ For the businesses studied, however, one could conclude that Sustainability has turned waste on its head. Waste is not always what it seems to be. Waste is something that "was," if it still "is" and it is usable it is not really waste at all.⁵⁴⁰ The study shows that what to the businesses actually used to be waste, has been transformed into something else, i.e. a resource. This implies, from a business's point of view, Sustainability is a resource management system rather than one preserving the environment. The consequences may be favourable for both the environment and humanity, but what drives businesses cannot, or at least do not have to be, based on these. Businesses do not have to be good to do good things, meaning that the values of businesses do not have to be the same as in their environment. The more that can be characterised as a resource rather than waste, the better for both businesses and the natural habitat. The reasoning behind this differs. For businesses it is a money saving issue, for the natural habitat it is about producing less waste through using a lower amount of resources. These days, many publicly listed companies describe their values in their annual reports. The starting point is that these values are unique even though they tend to resemble each other.

⁵³⁹ EU Industrial Emissions Homepage,
<http://ec.europa.eu/environment/waste/legislation/a.htm>, 09.03.2013.

⁵⁴⁰ Philippopoulos-Mihalopoulos, A, 2007, p. 199.

I have referred to Sustainability as a legal principle. This does not mean businesses would know about or recognise there is such a principle. The concept of Sustainability is too vague when it comes to details. One of the businesses studied sees law as important but does not talk about a principle as such.⁵⁴¹ Law is present but businesses do not appear to work with Sustainability as if it were a legal principle. This also seems to apply to environmental NGOs.^{542 543} Their thinking does not seem to derive from law either. It seems to derive from perceived problems in the natural habitat. At the same time, when the question is asked they realise there is a lot of law involved at both a national and international level. The principle seems to be a consequence of evolution rather than a starting point, a principle reflecting the expectations of society. The law and voluntary schemes seem to be the tools to employ in order to know what to do. The voluntary eco-management directives show this. Here there is an attempt by the EU to prepare the behaviour of businesses in order for them to be able to manage forthcoming obligatory directives. The three businesses studied have all included EMAS in their operations but it was not necessary for them to do so. Is this an attempt by the EU to steer businesses? I believe it is but at the same time only self-steering in relation to the studied businesses is possible, this by minimising the difference between themselves and the environment.⁵⁴⁴

Traditionally in Sweden and Finland private individuals own the forests. It can be argued that individual private ownership has resulted in a responsible attitude towards forestry. There is the willingness to do what is thought to be the best solution for forests in the long run. Modern forest owners may be farmers living in rural areas but they may as well be urbanised. They may have their roots in the countryside and the forests may be inherited from ancestors who were farmers. People working with forests presumably have some education that relates to

⁵⁴¹ Interviewee 4, p. 6.

⁵⁴² Interviewee 1.

⁵⁴³ Interviewee 2.

⁵⁴⁴ Luhmann, N, 1997(b), p. 46.

forestry and if not they may have experience of forestry. For urban forest owners it is often a question of inherited wealth that from time to time generates some extra income. There does not, however, seem to be any direct link between Sustainability as a principle and people managing forests. This could have to do with their educational background that is likely to be more related to biology and silviculture than law. This can be read as evidence that Sustainability is not a consequence of law but of evolution. On the other hand, EMAS brings forward a different perception in that, even if it is a voluntary scheme, it prepares businesses for living with EU directives related to Sustainable Development.

Another reason why attitudes supporting conservation and a sustainable treatment of forests in Finland and Sweden are common is the recreational use of them. The ancient right to roam means one does not have to own the land to use it for recreation. Anyone is allowed to go mushroom- and berry picking and this is a popular recreational hobby for many people, not just for owners of forests. It is even legal to sell the berries tax-free. Most of the potential harvest of berries, like blueberries, lingonberries and cloudbberries is left in the forests anyway so it is not a real loss for the owner of the forest. Perhaps this has had an impact on how businesses think and how they treat issues arising around Sustainable Development. There may be a link between the high standard of education and attitudes as well. This is not only a produce of successful state schools but also a consequence of the work done by NGOs. This may be pure speculation but having grown up in the Nordic Countries this seems to be plausible. As an example the work of the Finnish Nature League does support attitudes aiming at Sustainability.⁵⁴⁶ They provide

⁵⁴⁶ The Finnish Nature League,
<http://www.luontoliitto.fi/luontoliitto/english.html>, 15.12.2012
Nature League in a nutshell: -Nation-wide nature and environment protection organization for children, the youth, and young adults.
-Works in forest, wild animal, water system, climate and energy issues and pioneers environmental education in Finland.
-Organizes nature club and camp activities and courses and publishes guidebooks and other material related to nature and the environment.

education for children and young people through a number of activities. It seems that there could be a link between positive attitudes towards Sustainability and education. The corresponding organisation in Sweden is called "Naturskyddsföreningen".⁵⁴⁷ In addition popular land ownership may have played a relevant role in how forests are cultivated. This in combination with the right to roam could have created the rules of behaviour that makes Sustainability come naturally. I have not dealt with the situation in Sweden at this instance, but Finland and Sweden used to be the same country for 600 years and the ancient right to roam is the same in Sweden. The union between the countries ended in 1809 when Finland was taken by Russia in conjunction with the Napoleonic wars. This is interesting when we compare the Nordic situation with that in Southeast Asia and Latin America. There is some resemblance to how the studied businesses treat/take care of their employees in Latin America and in Southeast Asia and old industrial towns in the Nordic that were built up around paper mills.⁵⁴⁸

Before the arrival of the paper industry forestry was based on thinning, i.e. harvesting fully-grown trees. This was the case until the early 1900s. Later the aim was to grow forests where the trees were roughly of the same age. This made it easier to harvest. When different methods were compared, the best method was considered to be the one with the fastest re-growth after it was cut. In 1948 some leading researchers of silviculture concluded that thinning is not the correct method. This resulted in clear cuts and cultivation of forests where all trees were of the same age. The Forestry Act of 1996 is still based on forests with trees of

-
- Circa 7 000 members.
 - Eight district and two local organizations.
 - Economically and administratively independent member organization of the Finnish Association for Nature Conservation.
 - Politically independent.
 - Founded in 1943.

⁵⁴⁷ Naturskyddsföreningen, <http://www.naturskyddsforeningen.se>, 02.12.2012.

⁵⁴⁸ Interviewee 5, (my translation).

the same age, but with some thinning before clear cuts. This is something accepted by most owners.⁵⁴⁹

In 1996 there was a new Finnish Forestry Act taking into account the UN conference on Sustainable Development and the 1993 European Ministerial Conference on the Protection of forests.⁵⁵⁰ The Forestry Act will be dealt with later, chapter 7.1 pp. 169-170, but it is still important to mention it here because of the impact it may have had. One of the studied businesses expressed the following view in relation to traditions and forestry:

*“And then if you look specifically at the forest industry, where we have our roots, the fact that you have been used to working with forests where the perspective is one hundred years then you understand that if you want to be around after one hundred years, which is the ambition, if we are going to grow and be big and profitable then we have to take care of our forests and we have to take care of our employees, so we have it somehow built-in in our way of thinking and I do not think it per definition is like this in industries with a significantly shorter life span, both when it concerns products and raw material they have a bigger challenge when it comes to embrace this way of Sustainability that is more long term than the next quarterly report”.*⁵⁵¹

The contextuality behind the modern pulp and paper industry is interesting and it may well be one explanation for how things are dealt with in the Nordic countries. The memory of the past is very much present in this quote and because previous decisions form part of the structure of future decisions the past always has an impact on future decisions.

⁵⁴⁹ Luonnossa, http://www.luonnossa.net/Metsanhoito/Metsanhoidon_historia/metsanhoidon_historia.html, The history of forestry, 07.07.2012.

⁵⁵⁰ Finlex, http://www.finlex.fi/fi/esitykset/he/1995/19950117_15.12.2012.

⁵⁵¹ Interviewee 4, p. 11, (my translation).

The same interviewee also speculates on how the much shorter life cycle of forests in Latin America will affect competition. In Sweden and Finland the forests are harvested every 70-100 years compared to 7-10 years in the plantations in South America.⁵⁵² Is the long-term perspective exported to the emerging countries? Luhmann's theory on decision-making would mean all the old decisions would be carried with the organisation. The employees in the Nordic, however, carry with them the long-term perspective; will the employees in emerging countries do the same? Luhmann did not include spatiality in his theory but it does seem plausible it may make a difference. Here contextuality is of interest and it seems clear to me that past decisions have an impact. It is at the same time clear that any new decision is affected by the present. Luhmann debated memory loss in one of his lectures.⁵⁵³ He did not, as I understand it, reach a conclusion. Through new decisions, however, decision premises change bearing in mind that previous decisions are present through the past. I raised the question earlier with the example of a Norwegian shipping company and a plane crash. Luhmann referred to computers and their ability to store memory. One cannot deny that decision premises cannot just be stored on a computer or in cyberspace. Psychic systems parallel to business organisations have a role to play here. This is something that is not denied by systems theorists but is claimed by its critics. Have the Nordic pulp and paper businesses operating in South America and South East Asia been capable of remembering to think long term? Future will tell.

6.1.1 SCA (First Company Examined)

In order "*to increase knowledge of SCA's environmental efforts*"⁵⁶⁶ the Environmental Report was created in 1998. The heading of the report

⁵⁵² Interviewee 4, p. 11, (my translation).

⁵⁵³ Luhmann, N, 2013, pp. 244-246.

⁵⁶⁶ SCA Environmental Report 1998, p. 8.

was *“Addressing a Natural Concern”*⁵⁶⁷. It did not mean that social issues were not covered at all but it states that environmental concerns are considered more relevant than social dittos. The report covers social issues as *“Human and financial capital: the inseparable link”*.⁵⁶⁸

In 1997 a number of objectives for 1998 were set up in relation to Sustainability. The first objective was to *“develop SCA’s Resource Management System (RMS) into a common tool for the Groups Environmental work”*.⁵⁶⁹ It is claimed the system was fully functional by the end of 1998. This means socially, factually and temporarily the decision to develop the RMS into a tool for the Groups environmental work had been fulfilled. The system was inspired by EMAS (The EU Eco-management System). This structure seems to be fundamental to the way the organisation dealt with environmental issues. Structurally the decisions behind it became a part of the company’s decision premises. In terms of process what occurred was uncertainty absorption, as the contingency around how to manage and measure environmental issues was closed. The tool enabled SCA to present trustworthy numerical figures, which may satisfy outside observers. What is interesting is the lesser attention given to social issues in this instance.

It can be argued the Resource Management tool is there for managing Sustainability when it comes to environmental issues. It could, however, also be argued that it is only there to manage its resources sustaining economic Sustainability. This suggests there does not have to be a conflict between the economy and improvements in the environment. SCA’s resource management tool is a tool making it possible to follow environmental law, the waste directive, the chemical directive etc. This was a decision making it unacceptable not to know how much energy was used, how much was emitted, how much landfill waste was dumped and so forth. In terms of decision-making premises, it meant that it was not permitted to pollute and dump waste without knowing how much. In the

⁵⁶⁷ SCA Environmental Report 1998, Cover page.

⁵⁶⁸ Ibid. p. 36.

⁵⁶⁹ Ibid. p. 8.

years to come, targets were set up in relation to the amount of waste to be let out in the form of air pollution, waste taken to landfill, emission of co2 and energy consumption.

Another reason for SCA to publish the report is said to be the conclusion that *“our stakeholders’ opinion and involvement in our business are of primary importance to our future financial growth”*.⁵⁷⁰ From a systems theory perspective this can be seen as an acknowledgement of an environment outside the organisation.

In 1999, the work to implement EMAS continued. It was decided to improve the re-use of waste from the manufacturing plants of the company. In order to develop the communication channels surrounding Sustainability, a new communicator was appointed. Environmental issues were dealt with through the company’s Environmental Council. The then head of Sustainability, Alf de Ruevo said: *“To create a return for everyone involved in SCA’s business, the environmental and social responsibilities which assist financial growth must be at the heart of everyday activities”*.⁵⁷¹ Here the basis for the company’s operations is to make more money by respecting environmental and social issues. The following year the then CEO of SCA, Jan Åström, concluded, *“business is following a new agenda, potentially capable of producing greater economic, social and environmental benefits”*.⁵⁷² Neither of the quotes is a decision but they show a thinking that allows for taking environmental and social issues seriously.

The year 2000 environmental report is built around eight symbols that all relate to the environment. Best available technology (BAT) is to be aimed at when developing products and adjusting to the environment. Water resource management and tracking of chemicals in the production process is developed. Recycling in order to add value to the paper production is focused on. The issue of climate change is addressed

⁵⁷⁰ SCA Environmental Report 1998, p. 4.

⁵⁷¹ SCA Environmental Report 1999, p. 6.

⁵⁷² SCA Environmental Report 2000, p. 3.

through a reduction in Co2 emissions. Carbon trading is also dealt with. The management of energy resources and renewable energy are also put on the agenda, as is forest management and the recovery of waste.

The environmental organisation is organised to mirror the lines of businesses.⁵⁷³ It includes the CEO, which I believe is a pre-requisite for any Sustainability programme to become a success. The head of Sustainability, however, is not a member of the management team.

In 2000, the EMAS certifications continued and the handling of chemicals was also improved. A group wide system for health, safety and environment was planned. This way social and environmental issues were connected. Improved handling of chemicals related to a nationwide project within the pulp and paper industry that helped to get better control of chemicals, was used. This project was related to the EU IPPC, (Integrated Pollution Prevention and Control) directive.⁵⁷⁴ It is interesting to speculate whether the database for chemicals would have been built without a EU directive such as REACH (Registration, Evaluation, Authorisation and Restriction of Chemical substances).⁵⁷⁵ In 2000, a supplier assessment programme was started. Here risk management, financial and operational benefits, products and environmental efficiency, and product life cycle impacts are taken into consideration. In addition, internal communication in relation to the environment was improved. Again resource management seems to be at heart of the efforts made in relation to Sustainability.⁵⁷⁶

In the 2001 environmental report the role of legislation⁵⁷⁷ is highlighted. In 2001 the EU presented its environmental plan for the next ten years.

⁵⁷³ SCA Environmental Report 2001, p. 5.

⁵⁷⁴ EU Industrial Emissions Homepage
<http://ec.europa.eu/environment/air/pollutants/stationary/ied/legislation.htm>, 22.03.2012.

⁵⁷⁵ EU Industrial Emissions Homepage
http://ec.europa.eu/environment/chemicals/reach/reach_intro.htm, 15.04.2013.

⁵⁷⁶ SCA Environmental Report 2000, p. 27.

⁵⁷⁷ SCA Environmental Report 2001, p. 9.

These were integrated to the resource management system. This is interesting as a clear finding from the interviews has been that law is not a driving force behind Sustainability. It was also decided emissions of carbon dioxide from fossil fuels in relation to the production should be reduced.⁵⁷⁹

It can be argued that the company in structural terms now has integrated social and environmental issues on an equal basis. This can also be seen looking at the communication channels. There is now a SCA Group Sustainability Council with two sub-committees; the Environmental Committee and the Social Responsibility Committee. This way environmental and social Sustainability are connected.⁵⁸⁰ For SCA 2002 can be said to be the year when social issues started to be treated on an equal foot with environmental issues or at least this impression was given.

It can be said that the resource management system set the pace for how environmental issues within SCA were dealt with during the years that the environment was the number one issue when it came to Sustainability. The decision programme was highly goal based. Each year the amount of pollution the company was going to emit was to be lower than the year before. Less pollution does not necessarily mean better economy but it should mean better management. Less energy, however, should result in a better economy. The first years of Sustainability shows the company getting ready to manage environmental issues.

6.1.2 Stora Enso (Second Company Examined)

Stora Enso is the result of the merger in 1998 between the Swedish company Stora Kopparberg and the Finnish company Enso Gutzeit. Stora Kopparberg has its roots in an area in Sweden called Stora Kopparberg

⁵⁷⁹ SCA Environmental Report 2000, p. 22.

⁵⁸⁰ SCA Environmental Report 2002, p. 16.

and was first mentioned as early as 1288.⁵⁸¹ In 1999 the company published an environmental and social policy. Stora Enso also publishes an environmental report and environmental bulletins showing how important the natural environment part of Sustainability is to them. At the time of the merger (1998), 34 units were either EMAS or ISO 14001 certified.⁵⁸² This looks very similar compared to SCA. All forest holdings in Sweden were FSC certified. In Finland and Canada forests were certified according to ISO14001. As in SCA there is an attempt to lower the amount of emissions. The emissions of sulphur are down, there is an increased use of fibre, and emissions of nitrogen oxides are also down. Chemical oxygen demand (COD) is down as is AOX. The use of biofuels is up and fossil fuels down. A new transport system called “Baseport” is introduced.⁵⁸³ Baseport is there for the optimisation of logistics. An environmental committee chaired by the deputy CEO is established.⁵⁸⁴ There is at this stage an environmental committee but not a social one and the person responsible for it is not the CEO but his deputy.

IN 1999, Stora Metsä (Forest) was awarded EMAS registration and Stora’s Finnish mills started receiving FFCS (Finnish Forest Certification System) certified wood. This concerned both domestic and imported wood. The FFCS was renamed PEFC in 2003. This third party certification was based on family forest ownership and was heavily criticised at the time.⁵⁸⁵ It can be argued that the PEFC was established as a reaction to FSC. While FSC is an organisation born outside the forest industry and forest-owning organisations, PEFC is an organisation with its roots in organisations close to forest owners.

⁵⁸¹ Stora Enso, <http://www.storaenso.com/about-us/history/Documents/Stora%20Enso%20history%20timeline.pdf>, 09.01.2012.

⁵⁸² Stora Enso Environmental Report 1998, p. 2.

⁵⁸³ Ibid. p. 2.

⁵⁸⁴ Ibid. p. 11.

⁵⁸⁵ Cashore, B, Egan, E, Auld, G, and Newsom, D, February 2007.

During the following four years, environmental performance is improved. The decision programme is goal based with the intention to constantly improve performance.⁵⁸⁶ From the late nineties until 2009 efforts are made to decrease landfill waste, SO emissions, and COD discharge. Later CO2 emissions are included. An important issue is energy consumption where efforts are made to become more energy efficient. The EMAS and ISO 14001 certifications are continued. By 2001, 87% of Stora Enso's pulp and board capacity is covered by EMAS or ISO 14001. The work on traceability continued and general rules in relation to fibre sources were also set up. A climate change policy with the intention of using the groups potential to mitigate climate change was set up. From 1998 onwards the sustainable performance is audited by Price Waterhouse Coopers.

In 2002, Stora Enso's principles for corporate social responsibility were approved and it was decided to become a member of the Global Compact an initiative by the UN secretary Kofi Annan. The initiative is discussed further in chapter 7.2 p. 185. A Corporate Social Responsibility report was published in 2002 for the first time. The environmental report had changed its name to Environment and Resources in 2001. Now the company had two reports relating to Sustainable Development. This is significant as it indicates the balance between environmental and social issues. SCA re-named their report the same year.

In 2003 the CSR⁵⁸⁷ network was used as a third party assurance provider for the first time. CSR and Sd3 were merged in 2009 becoming "Two Tomorrows".⁵⁸⁸ In previous years the company auditors did the auditing. This meant a new layer of transparency was included. The relationship between the company and its auditors is always commercial. The third party assurance providers are at least supposed to be independent. The two other companies studied still use their company auditors. In the same year Stora Enso applied the GRI rules for the first time and the nine

⁵⁸⁶ Stora Enso Sustainability Reports 2004-2007.

⁵⁸⁷ Stora Enso CSR Report 2003, p. 50.

⁵⁸⁸ Stora Enso Sustainability Performance, 2009, p. 43.

principles of the Global Compact were addressed.⁵⁸⁹ The hierarchy of the governance-environmental support team was changed so that there was now a customer support team, a CSR team and a forest environmental team. The environmental committee was replaced by the sustainability committee, which includes the heads of all product areas helping to integrate it all.⁵⁹⁰ In 2003, all pulp and paperboard mills were EMAS or ISO14001 certified.⁵⁹¹

A long-term aim to get as much wood as possible from certified forests, was decided upon. The share in 2003 was 45%.⁵⁹² The work on resource efficiency and lower emissions was continued as were the programme to certify forests. The use of biofuels continued to grow even if the share of biofuels decreased. At this point it is noticeable that decisions in relation to the environment became goal based with the intention to pollute less.⁵⁹³

In 2004, country specific risk assessments were continued and the due diligence guidelines for Sustainability were finalised. There was an intention to start CSR data checks but they were postponed till 2005.⁵⁹⁴ Likewise, supplier CSR pilot audits to be commenced were postponed to the following year.⁵⁹⁵ Corporate guidelines on reduction of the workforce were postponed to the following year.⁵⁹⁶ The principles on CSR were reviewed and up-dated during the year. The WISE (Women in Stora Enso) project network was established, salary reviews were carried out and career plans made for the network members and a plan was made

⁵⁸⁹ Stora Enso CSR Report, 2003, p. 5.

⁵⁹⁰ Stora Enso CSR Report, 2003, p. 10.

⁵⁹¹ Ibid. p. 14.

⁵⁹² Ibid. p. 20.

⁵⁹³ Ibid.

⁵⁹⁴ Stora Enso Sustainability 2004, p. 32.

⁵⁹⁵ Ibid.

⁵⁹⁶ Ibid. p. 33.

for cascading the project through the units.⁵⁹⁷ Procedures for how to handle harassment cases started.⁵⁹⁸

2004, was the year when social issues were taken into consideration actively. There was a shift from dealing mainly with environmental issues towards a balancing between environmental and social issues. As we have seen not all planned decisions became decisions in Luhmannian terms. More time was required. In a similar way as within SCA the first years of Sustainability dealt merely with environmental issues. Through EMAS and ISO 14001 systems were built up in order to make it possible to measure the environmental harm the company caused. Only when these measures were in place was it possible to lower the impact. In terms of structure and process these decisions took place in the late nineties and the early years of the century.

6.1.3 UPM (Third Company Examined)

UPM is a result of a merger between Finnish companies Kymmene, Repola and its subsidiary the United Paper Mills in 1995. The operations of the company, however, go back to the 1870s. The merger happened in the aftermath of the economic crises that occurred in Finland and Sweden in the early nineties resulting in consolidation within the pulp and paper industry.

UPM gave their first environmental report in 1995. This study starts with the report that covers year 2000. As with the other two businesses studied, social issues are not on the agenda at this point. Looking at the contents, it contains statements on UPM's relation to its natural environment, but also to its stakeholders and environmental communications. Environmental management and resource management seems to be at the forefront. As with its competitors, continuous

⁵⁹⁷ Stora Enso Sustainability 2004, p. 36.

⁵⁹⁸ Ibid. p. 33.

improvement is stated as important, meaning that goal based decision premises are the base for their environmental work. It is stated that the majority of the wood procured in Finland is from certified forests.⁵⁹⁹

In their environmental highlights they state that three new power plants that will increase the use of biofuel were under construction. These were decisions yet not completed. The emissions are said to be at a “record low” in relation to production and all significant mills that were in the company’s possession before 2000 had been environmentally certified. Forest certification was on its way in a number of countries.

The relation with stakeholders is highlighted, as is the traceability of wood in the supply chain. UPM has sent its employees as visiting lecturers to universities and training organisations. They also provide assistance for students writing their diploma thesis in environmental studies. Environmental reporting to stakeholders has taken place addressing each stakeholder group. A number of the paper mills produce local environmental reports. Environmentally related issues are also something the interviewee from UPM remembers being at the forefront during the nineteen nineties, especially in relations to customers.

The environmental policy for the company is also presented.⁶⁰¹ When it comes to eco-certification, ISO 14001 is the most widely used but EMAS is used in some mills and in the forestry department. Looking at decision channels, it can be concluded that there is a vice-president responsible for environmental affairs represented on the Group’s Executive Board. The vice president responsible for the running of the day-to-day environmental matters is, however, not on the Group’s Executive Board.

In the 2001 report, GRI was applied as part of the preparation. It is stated that the best economic result is achieved when neither people nor the environment are threatened. UPM has encouraged safety at work and trained its personnel in relation to safety. The business approved its

⁵⁹⁹ UPM Environmental Report 2000, p. 3.

⁶⁰¹ Ibid. p. 10.

ethical principles in 2001. The board proposed to donate 500 hectares of forest to the state in order to establish a national park. It also decided to protect 1200 hectares of its own land around the park. The company also spent money on the Finnish paper products museum and the Verla ground wood plant and board mill was included in the UNESCO World Heritage List. The wood-tracing project on imported wood from Russia to Finland was completed. The use of biofuels was increased.⁶⁰²

In 2002, the Environmental Report changed name to the Corporate Responsibility Report. It is interesting that all of the businesses studied changed the names and content in the same year. There clearly was a shift from just being an environmental issue, to becoming something about both the environment and social issues in 2002. The Johannesburg summit has been referred to as a point in time when change took place, chapter 6.2 pp. 153-154. These reports were obviously based on the previous year but the preparations for the summit may well have affected this, in fact, the 2001 report included some material on social responsibility.

The 2002 Corporate Responsibility Report is, as in the previous year, based on the GRI guidelines. The same year the company also accepted the Global Compact initiative by the UN. Their social efforts included subsidising primary education in developing countries where they are present. UPM became a founding member of the Finnish Business Society promoting responsibility.⁶⁰⁴ This year UPM took action against April the Indonesian paper company that has been heavily criticised for the destruction of the rainforest.⁶⁰⁵ This seems to have ended the alliance between the two companies that started in 1997. UPM has been criticised for being a partner of April by both NGOs and some of its customers. April will be commented on later, chapter 7.1 p. 181.

⁶⁰² UPM Environmental Report 2001.

⁶⁰⁴ <http://www.fibsry.fi>, 16.10.2012.

⁶⁰⁵ Friends of the Earth Finland, <http://www.maanystavat.fi/april/press/factsheet.htm>, 16.10.2012.

In 2002, UPM presents its economic objectives as part of its approach to Sustainability. This was some time ahead of the two other businesses. Economic Sustainability is, however, something that does not tend to be on the forefront when Sustainability is discussed. Perhaps it was too obvious to be noted.

Social Responsibility and Human Resources together with the revised Environmental policy and Occupational Health and Safety are the cornerstones for all operations in the day-to-day work of the employees. It is concluded that the success of personnel and UPM is a common goal. The goals are to be achieved by setting targets. The profit is shared through a profit sharing scheme. When it comes to health and safety the target is zero accidents. In order to manage sub-contractors, safety cards are introduced.

In a similar manner to SCA and Stora Enso, UPM starts its work on Sustainability by concentrating on environmental issues. It is a process where the production plants are prepared for EMAS/ISO14001, a work that as such is a learning process in order to grasp what Sustainability means in practical terms. Through this process environmental issues, in structural and processual terms, became decision premises of the company.

6.2. Taking Social Issues into Account

When we come to the beginning of the century the character of Sustainability changes. During the nineties it was, among the businesses studied, an issue of the natural environment and concentrated therefore on emissions, water, waste and energy. All of these are in principle cost-reducing factors. The better resources are utilised the more efficient the production is. As noted above each of the businesses studied introduced social reporting in 2002. It could be a coincidence but it all happened close to the Johannesburg summit 2002 where practical issues on

implementation of Sustainability both social and environmental were debated.⁶⁰⁷

*“As a matter of fact, for the first time Sustainable Development was debated among businesses when they started to think about how to integrate environmental, economic and social responsibility”.*⁶⁰⁸

It is hard to believe that all three business studied would come up with the same idea without any irritation from the environment. It looks as if society was very much involved, as it had been through the nineties.

6.2.1. SCA

In the SCA reporting social issues were mentioned for the first time in 1999. In 2000 a group-wide system for health, safety and environment was started as well as a system for supplier assessment. In 2002 the CEO Åström in their Sustainability report said: *“I think it is time to broaden our vision and integrate Sustainability in the wider sense of the word”*.⁶⁰⁹ Here, awareness that Sustainability is much more than just caring for the natural habitat is present. They now start talking about corporate responsibility. An impression is given that the company is focusing on how to manage Sustainability.

In 2002, the report was called Environmental and Social Report instead of the Environmental Report used up till then. This shows the company's intention to treat environmental and social issues in a balanced manner. In 2002, Jan Åström also concluded that Sustainability had become *“a part of our normal operations”*.⁶¹⁰ This quote suggests they have managed to include Sustainability in their system based on their internal operations.

⁶⁰⁷ Interviewee 2, p. 1.

⁶⁰⁸ Ibid, p. 2, (my translation).

⁶⁰⁹ SCA Environmental & Social Report 2002.

⁶¹⁰ Ibid. 2002.

In 2002 the objective is to formulate a policy defining the company's position on freedom of association, freedom from discrimination, fair working condition, community involvement, information disclosure, competition and taxation. Reviews will be made in order to follow up the performance of the situation. First, a project aiming at defining the company's position is started. Then a project with the intention of formulating a policy on the same is decided on. This is perhaps typically Swedish behaviour. In 2005, the code of conduct that came out of this was implemented to 95%. The code of conduct is monitored through the existing reporting systems.⁶¹¹

In 2005 the economy as one of the three pillars of Sustainability is acknowledged. *"Resource efficiency and good social relations"* are seen *"as outstanding qualities of successful companies"*.⁶¹² This marks a shift in thinking in relation to Sustainability. What started with the environment now also includes social issues and the economy. This is also the way Sustainability was portrayed in the Rio documents. The 2005 report includes both an environmental and a social report. Emissions are reported through the resource management system.

In 2008 SCA signed the Global Compact and reported in accordance with the GRI guidelines level A. In essence the company tried to improve Sustainability management. The goal-based decision premises are made harder to achieve when at the same time social issues becomes an important part of Sustainability.⁶¹³ In 2009 the code of conduct was applied worldwide. This is interesting because of what has happened in the past, especially when it comes to the natural environment; pollution is exported to emerging markets. Now my reading of the situation is that especially when it comes to social issues it will be easier to administer employees when the code of conduct is in place. A whistle blower system was implemented in some emerging markets in order to catch breaches of human rights. The system now provides a link between the individual

⁶¹¹ SCA Environmental & Social Report 2005.

⁶¹² Jan Åström CEO, SCA Environmental and Social Report 2005, p. 3.

⁶¹³ SCA Sustainability Report 2008.

and the targets of the company. This suggests that Sustainability has become a part of the business model.⁶¹⁴

6.2.2. Stora Enso

The shift from just caring for the environment towards social issues did not mean environmental issues were forgotten. What can be seen is that environmental managing systems are in place and that what they did in relation to the environment was to introduce stricter rules for emissions and other kinds of polluting. From 2004 onwards, a process and a system for managing social issues was built up.

As noted above, Stora Enso's first Corporate Social Responsibility report was published in 2002. Sustainability as a concept was mentioned before but it was not until this point in time decisions in relation to social issues could be seen in the reports. The Johannesburg summit in 2002 seems to have been the turning point. This is also the view given by one of the NGOs.⁶¹⁵

As noted above in 2003 the CSR network was used as third party assurance providers for the first time and the Global Reporting Initiative was applied. Likewise the nine principles of the Global Compact were addressed. In the same year the Sustainability governance was changed in order to accommodate both environmental and social issues. Stora Enso's Environmental Committee was replaced by the Sustainability Committee and includes the heads of all product areas. The deputy CEO chaired the committee. The head of Sustainability was, however, not included in the management team. The committee has four support teams: the environmental, the forest environmental team, the corporate social responsibility team and customer support team. The intention of the Sustainability Committee was to re-define policy on environmental and corporate social responsibility issues and for the support teams to

⁶¹⁴ SCA Sustainability Report 2009.

⁶¹⁵ Interviewee 2, p. 1, (my translation).

manage the implementation. In addition the intention was also to follow it up and to communicate with stakeholders including NGOs and to develop management procedures.⁶¹⁶

In order to implement social Sustainability a facilitator programme was started and likewise the work on defining an audit for CSR. The finalising of a definition of targets in relation to these was for some reason postponed till 2005. What can be seen here is that what they were about to create would result in a management system for social Sustainability. As noted above in 2004, the CSR principles were reviewed and new targets were decided upon. In addition to the targets already discussed there were targets on how to manage harassment cases and how to reduce lost time accidents to zero. Absenteeism is targeted to be less than the industry average. There is also a programme on competition compliance. The aim is to train all management groups in this issue.⁶¹⁷

When we come to 2005 the work continues; the CSR implementation training and quality assurance, the inclusion of CSR in the due diligence process in mergers and acquisitions. In the coming years the targets are made more difficult to achieve. This concerns issues like occupational health and safety (OHS) and employee wellbeing, supply chain management, diversity and absenteeism. This year they also worked on understanding the economic impacts of Sustainability. Now it seems that the company has realised all of the three pillars of Sustainability have to be present.⁶¹⁸

In 2006, a target was set that meant that all of the group's employees would be covered by the company's social management systems by the end of 2007.⁶¹⁹ The actual situation at the end 2007 was that 48.5% of the workforce was covered. A programme to develop, monitor and enforce the Stora Enso Code of Ethics was started and partly achieved. The work on training female candidates for management positions

⁶¹⁶ Stora Enso Sustainability 2003.

⁶¹⁷ Stora Enso Sustainability 2004.

⁶¹⁸ Stora Enso Sustainability 2005.

⁶¹⁹ Stora Enso Sustainability 2006.

(WISE) was revitalised. The following year a mentoring pilot programme for women in Stora Enso commenced. What can be seen throughout these plans is that it often takes more time to achieve these targets than planned and perhaps also that it is more difficult to implement than expected. An example of this is the occupational health and safety system implementation and also the expected decrease in lost time accident rate and absenteeism rate.⁶²⁰

From 2005 onwards Sustainability seems to become a mix of target settings and learning how to manage Sustainability and at the same time integrating it into the business models. What seems to be essential in all of these programmes is the possibility to measure Sustainability. Only when it can be monitored it can be implemented.

6.2.3. UPM

Even though it was stated in the environmental report from 2001 that the best result is achieved when people and the environment are not threatened, it was not until 2002 that the first Corporate Social Responsibility Report was published. In 2002, the Social Responsibility and Human Resources policies were accepted. Likewise, it was stated that the revised Environmental policy and Occupational Health and Safety policy were there to define the company's position and to establish cornerstones for all operations in the day to day work of UPM Kymmene's employees. The success of the employees and UPM was seen as a common goal. The goals are set through targets. Here the importance of human beings is acknowledged. This could be seen through a performance based profit-sharing scheme. What was promoted throughout the business was the idea of equal opportunities, a healthy and safe working environment and investments in health care for personnel. It, however, also meant sub-contractors had to be educated in health and safety. A programme for ageing employees was introduced

⁶²⁰ Stora Enso Annual Report 2007.

and likewise a programme with the aim of identifying risks in the workplace was introduced in order to minimise the amount of accidents. As was the case with Stora Enso, meters were put in place in order to make it possible measure not only environmental issues but social issues as well.

In 2003, occupational health and safety issues were integrated into the reward system in order to make superiors aware of, and minimise the problem. The work with the Global Compact was continued and UPM participated in discussions in relation to bribery and corruption. The company encouraged its partners to comply with the UPM Corporate Social Responsibility policy.⁶²¹

Within the Executive Team a group of five people forms the CR Council, i.e. the highest Corporate Responsibility decision-making body within UPM. The CEO is the chairman. The others are the CFO, the director for business support and resources, environmental and human relations, and communications. The Senior Vice President, Corporate Responsibility, reports to the Executive Vice President who is a member of the Executive Team.⁶²² As with the other companies, Sustainability is brought up to a high level but does not in operational terms reach the top even if the CEO chairs the CR Council.

In 2004 the target was to certify the occupational health system and to extend partner auditing to cover social responsibility aspects. Equal opportunity between men and women was promoted. Data collection in relation to HR was started in order measure the progress. Measures were taken in order to decrease the number of absentees due to sickness. Occupational health and safety issues were included in the performance review targets at all levels. The reporting in relation to this was to be

⁶²¹ UPM Corporate Responsibility Report 2003.

⁶²² Ibid. pp. 6,11.

developed so that senior management could monitor the situation. This way health and safety was integrated in the business model.⁶²³

In order to improve vocational training, a worldwide e-learning system was set up. A vocational training programme was started. The change in the character of the business meant that the company had people with the wrong types of skills. Through the training this problem could be addressed. The company also made efforts when it came to culture and collaboration between museums and the group was encouraged. ⁶²⁴

In 2005, further efforts were made on safety and wellbeing. Further development on reporting was made and a plan for implementing the OHS strategy was made through target setting. Collaboration across the whole business was started. The work on halting the increase in absence among shop floor workers was continued. In HR administration the supervisory work continued based on the results from an opinion survey. Leadership programmes designed for supervisors and foremen started. The work on the value based leadership programme continued. The principles of the company's leadership culture were defined and a sales personnel development programme began.⁶²⁵

The implementation of the profitability programme that started in spring 2006 had a widespread impact on the company's personnel. The from job to job programme helped those faced with unemployment find new jobs or training opportunities. Widespread cooperation with stakeholders ensured success for the programme. In 2008 the number of employees shrank and these programmes were used to make the redundancies process smoother. For example, older employees retired through a state sponsored unemployment scheme supporting the employee until he or she turned 60. Thereafter the employee retires. Younger employees were re-deployed at a special company with the sole purpose to find

⁶²³ UPM Corporate Responsibility Report 2004.

⁶²⁴ Ibid.

⁶²⁵ UPM Corporate Responsibility Report 2005.

employment for them. One option for the redundant personnel was to become self-employed.

The basis for how to utilise human resources in a better manner seems to be through targets and continuous improvement. This way the decision premises are goal based. Management systems have been created to manage this. UPM's employee engagement index is one way to measure improvement. In 2010,⁶²⁶ there was a 5% improvement. Another way of measuring continuous improvement is through the change management index where there was a 4% points improvement and the innovation index where the improvement amounted to 5% points. Similar statistics have been developed for accident frequency and absenteeism. The best practice is then spread along the company. This shows how social issues have become a part of the business model of the company. Social issues are a part of resource management as are environmental issues. The way to manage it all is through meters making it possible to measure. This seems to be very much in line with the operations of the economic system.

6.3. Economic Issues as Fundamental for Sustainability

Already in the Brundtland report, Sustainability was proclaimed to be a principle based on three pillars. In the same way that social issues were not the foremost during the nineties, economic issues were somehow forgotten in the debate until 2005. Then it was realised in the reports of the studied businesses that economic issues were as important as environmental and social issues. The three pillars had been seen as independent phenomena that did not relate to each other directly. This is fundamental for the success of Sustainability because only when Sustainable Development generates more profit at a lower risk, can it be part of the companies' business models. Sustainability can be seen as a resource management system and to become successful it has to result in

⁶²⁶ UPM Annual Report 2010, p. 53.

businesses being successful because they are sustainable not despite being that. This meant Sustainable Development had to be integrated into the business models of the companies in question.

Economic issues were mentioned in the SCA report already in 1999. The company gives an impression of having seen Sustainability as a resource management system where economic issues play a natural part earlier than the other companies studied. In 2001, SCA announced sustained profitability as being one of its objectives.⁶²⁷ This is done: “by combining profitability and growth with its corporate responsibility towards environmental and social issues”.⁶²⁸ Here the integration of the three pillars of Sustainability is brought forward.

In 2004, Stora Enso carried out a project assessing the economic responsibility of the company. This is clearly an aspect that had been put to one side in previous years. The pulp and paper industry is for instance often a dominant force and main employer where their production plants are located. This means that if a plant is to be closed down there is a risk of local mass unemployment. The project also assessed economic impacts on its stakeholders and direct economic impacts on its customers, suppliers and employers.⁶²⁹

In 2005, the Sustainability report of Stora Enso states: “Sustainability supports profitability – The basis for Sustainability involves the responsible management of economic, environmental and social issues, but the survival of any corporate organisation begins first and foremost with financial viability”.⁶³⁰ In 2006, the Sustainability policy of Stora Enso was changed and economic issues were brought forward. The policy starts like this: “Stora Enso is committed to managing and developing its business in a sustainable manner. Balancing our economic, environmental and social responsibilities are necessary for sustainable

⁶²⁷ SCA, Environmental Report, 2001, p. 8.

⁶²⁸ Ibid.

⁶²⁹ Stora Enso Sustainability Report 2004, p. 44.

⁶³⁰ Stora Enso Sustainability Report 2005, p. 4.

business and beneficial for our stakeholders”.⁶³¹ In the nineties efforts were made to improve environmental Sustainability. During the first five years of the millennium social issues were brought forward. In 2005 it was concluded that Sustainability has to support not only environmental and social issues but economic ones as well. Here financial viability was put first. The new Sustainability policy of 2006 seeks for a balanced approach. This means the company has to make profit not despite being sustainable but because it is sustainable. The integrated approach is stated in the policy of 2006: “We address Sustainability throughout our value chain, and we expect our suppliers and partners to comply with Stora Enso’s policies and principles, related to Sustainability”.⁶³² The motivational grounds for this can be many. It could be a way to say that, for the time being, we cannot do more for the environment or social issues. It could, however also be about transparency showing everybody where the money has gone. I have brought forward many times that economic, social and environmental issues have to go hand in hand. If the operations lose money it is not economically sustainable but it is also the case that if the company loses money it cannot care for the environment or social issues either. In terms of decisions Stora Enso has decided to take all of the three pillars of Sustainability into consideration when deciding on Sustainability. Structurally this represents a new decision premise for the company. It also integrates Sustainability into the way of management.

In 2012 on the question “is money made out of the principle of Sustainability?” I get the following answer:

There is no other way to make money than in a sustainable manner. What’s the chicken and what’s the egg, my view is that you cannot make real profit if not all operations are sustainable, this is how it is”.⁶³³

⁶³¹ Stora Enso Sustainability Report 2006, back page.

⁶³² Ibid.

⁶³³ Interviewee withheld, p. 6, (my translation).

Answers like this give a profound impression that the business really has realised that Sustainability is the only way to carry on its autopoiesis in the long run. This does not mean the business would already be sustainable, but at least it looks like they have realised that this is the only direction to go. Regarding Stora Enso, 2004 seems to have been the turning point when it came to understanding Sustainability as a balancing act between environmental, social and economic issues. Reaching this point may have meant they were in a better position to start managing Sustainability. The other businesses gave similar answers confirming Sustainability is the only way forward.

The economy is a fundamental part of the principle of Sustainability. However, it would seem that this was not noticed by the businesses at the outset. They were not able to see economic Sustainability as a pillar of the same value as the environmental and the social one. The proposition is that this was a blind spot among the businesses. To begin with they concentrated on the environment, later on social issues and only later on economic issues in relation to Sustainability.

Comparing the three companies SCA gives the perception of having been the first to realise that economic Sustainability is as important as the other pillars of Sustainability. This happened already in 1999. Stora Enso made this view public in 2004-2005 and UPM did the same in 2002.

Coming to 2012, all of the businesses had realised the only way to make money is through sustainable behaviour. This way they have all come to the same conclusion.

6.4. Managing Sustainability

Sustainability can be seen as foremost a programme of managing resources. After 2005, the businesses studied put measures in place in order to manage the three pillars of Sustainability. In the nineteen nineties managing Sustainability was organised around environmental

councils. Later, organisations were created around social issues as well. There had always been organisations dealing with economic issues. Managing Sustainability, however, requires a holistic approach using fewer resources to achieve the same output resulting in a better economy. A healthier workforce and a lower number of accidents also result in an improved economic performance. It looks like the future will bring an integrated reporting structure, which I think is in line with what the principle of Sustainable Development aspired to in the first place. In 1992 there was not the knowledge we have today and it would have been very unlikely for someone to predict what Sustainability would look like in 2013.

In order to manage Sustainability, methods of measurements are needed. Through these methods Sustainability is conceptualised making it easier to implement. Economic issues, social issues and environmental issues have been reported on separately. The IIRC⁶³⁴ (International Integrated Reporting Council), however, intends to integrate IFRS⁶³⁵ (International Financial Reporting Standards) and Sustainability reporting in a manner that allows for business analytics to analyse economic, social and environmental issues in an integrated comprehensive manner. There seems to be a mechanism in place that invites all parties with an interest in the development of Sustainability reporting to discuss the matter further. To predict what Sustainability looks like in 2034 is obviously as difficult as it was to predict Sustainability in 2013 in 1992. In Luhmannian terms the way we deal with Sustainability today must have seemed highly unlikely. What is interesting is that despite this unlikelihood, the principle has evolved in one direction. Sustainability in 2012 is based on a different distinction compared to 1992. In 1992 most businesses based on their contextuality could not see what Sustainability was about and what it would look like in the future. What they could see was that they could do something about the natural

⁶³⁴ Integrated Reporting, <http://www.theiirc.org>, 16.04.2013.

⁶³⁵ IFRS, <http://www.ifrs.org/The-organisation/Pages/IFRS-Foundation-and-the-IASB.aspx>, 16.04.2013.

habitat. Integrating the three pillars into one *raison d'être* made it easier to conceptualise Sustainability.

When it comes to a structural and a processual understanding of the evolving Sustainability it can be concluded that the three companies studied look very much the same. In temporal terms there are slight differences but on the whole they look very similar. Conclusions can also be drawn that the financial crises in 2007 and 2008 probably had an impact on the introduction of sustainable measures.

As concluded above, initially only environmental issues were considered by the businesses and eco-management systems such as EMAS were put in place. These systems made it possible for companies to strengthen their rules around environmental issues. Being able to measure emissions meant that the companies knew how much they polluted. The decision premises, i.e. the structure of the organisations, were changed through goal-based decision programmes meaning ever more difficult goals to fulfil were put in place. Other goal-based decision programmes that came later were the certification of forests and traceability. Traceability was important because without traceability it would in practice be very difficult to tell to what extent the businesses are sustainable or not. Traceability was the only way for the paper producers to tell their customers that the raw material was produced in a sustainable manner. Here the impact of NGOs can be seen. They put a great deal of effort into making sure publishers would not buy uncertified paper. At the same time, we have obviously not reached the stage when there would be no pollution at all. The law is still in that sense a license to pollute.

After 2005, social issues were put on the agenda. Again the measures were to a great extent goal-based. The businesses tried to reduce the amount of lost working hours; they tried to increase the number of women. In effect it was a question of equality. At the same time, it must be concluded that equality has not been fulfilled but that we are moving in that direction.

It was not only EMAS and ISO 14001 alone that helped the businesses to become more sustainable. Certification of forests and independent auditors added to transparency and this may have had an effect. Then there was the Global Reporting initiative and the UN led Global Compact.

As a result of the decisions made between 1998 and 2011 the studied business went from addressing environmental issues to managing the flow of raw material, to addressing social issues and finally to manage these processes. This would have meant that the reduced operational risks this resulted in would make it less risky to invest in the businesses. It sounds like the result was very much in conformity with economic issues. What happened, however, was that the business model changed. Sustainability became a part of the business models of the companies. In Luhmannian terms it all happened through self-steering, meaning that the difference between the organisations and their environment decreased. NGOs also played a part in what happened through the irritation and structural coupling they created through the FSC. The role of NGOs will be discussed further in chapter 7.2 p. 184.

The irritation within society resulted in changes in the legal system but not only in the legal system. Expectations changed and businesses had to change as well. At least this seems to have been the case with the Nordic pulp and paper industry. One important aspect of this may be the tradition of private ownership of forests. For businesses and private persons alike it is better to take care of the forests in a proper way, whatever that is considered to be at a certain point in time.

7. Sustainable Development and the Environment of Organisations

Below I am discussing some aspects of what causes business organisations to behave in a certain way when it comes to Sustainable Development. What are their motivations in addressing it? What is it that makes the decision to do so look rational from businesses' point of view? The proposition is that in addition to law there are a number of organisations that affect how businesses behave. These are NGOs, investors, customers but also consumers as mass movements and to some extent auditors as verifiers. These are all organisations, which emerged through the interviews. This chapter does not carry the retrospective aspects in the same manner as above. On occasion, however, it has been possible to place the outcome in a timeline.

The distinction is as discussed in chapter 5 pp. 129-130, and shown in the figure below.

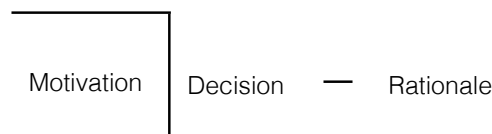


Figure 3

7.1. Sustainability and Law

In observing how businesses react to Sustainability, the question of law is interesting. Some of the rules and regulations are voluntary but this does not make them less important. I have briefly touched on the fact that all of the businesses studied used EMAS in their reporting. There has, however, been other legislation that has attributed to the pulp and paper industry's behaviour in relation to Sustainability. The new Forest Management Act was enacted in Finland in 1996. The starting point of the updated Forestry Act 1996 was economic, ecological and social Sustainability, meaning that a sustainable management and use would

result in economically sound output when at the same time biodiversity is upheld.⁶³⁶

The rationale behind applying EMAS could be the fact that it prepared the businesses for the compulsory directives that were going to be introduced by the EU. Implementing EMAS also gave the impression of the businesses being good citizens but there could also have been other reasons like tradition. When it comes to strict law, businesses are obliged to comply and it would be in accordance with any listed company to abide with the law, but again we have to remember this can only be done on the basis of the internal operations of the organisation. There would also be the possibility to just ignore the law but to my knowledge this has not occurred.

The new Forest Management Act 1996 covers privately owned forestland, some 15.3 million hectares. This represents 75 % of the total forestland in Finland. The promotion and control of the forestry had since the 1920s been carried out by what in the 1990s were called the forest centres and the forest boards. These had played an important role for the prosperity of the country and natural environment. There always seems to have been a sustainable intention in forest management in Finland but new knowledge required a new kind of behaviour. It was not just about growing trees any more, all that affected the land was to be taken into consideration, including biodiversity. The Act was inspired by the United Nations Conference on Environment and Development in Rio 1992

⁶³⁶Metsävastaa.net,
[http://www.metsavastaa.net/files/metsavastaa/pdf/15FHyvan205Fmet
sanhoidon5Fsuositukset2Epdf.pdf](http://www.metsavastaa.net/files/metsavastaa/pdf/15FHyvan205Fmet
sanhoidon5Fsuositukset2Epdf.pdf), 15.12.2012.

including the Biodiversity Convention,⁶³⁷ and the Ministerial Conference on the Protection of Forests in Europe.⁶³⁸

*“There is a long tradition of sustainable forestry in Finland. It goes back a hundred years or more, to the times when Finland was a Grand Duchy. It was noticed at an early stage that we had few natural resources and therefore the forests had to be taken care of, hence the long tradition....”.*⁶³⁹

Long traditions of caring for the forests could be one element of the preparedness in taking new methods on board. Contextuality may have its impact on how nations behave. The ownership had always been largely local and in private hands. This could have meant there was a preparedness to take care of the forests. There are also vast areas of forests owned by the state but this is in less densely populated areas.

In Sweden, a new Forestry Act was also introduced in 1994 integrating conservation and environmental issues into forestry. Like Finland, Sweden is a signatory to the Ministerial Conference on the Protection of Forests in Europe. The organisation is pan European with observers in the form of governments and NGOs from all over the world. A new attitude was embraced. This was, however, not the only change in attitudes. There had also been a change in how professionals think within the forest industry. It was not just NGOs and legislators that had changed; the same had happened within the profession as well.⁶⁴⁰ Why did this happen?

“My view is that environmental organisations had a role to play. So had the increasing awareness among our customers. For me as a person who enjoys forests and nature I have seen how professionals have developed. In a sense

⁶³⁷ Finlex, <http://217.71.145.20/TRIPviewer/show.asp?tunniste=HE+117/1995&b ase=erhe&palvelin=www.eduskunta.fi&f=WP>, Introduction to the Forest Management Act, 15.12.2012.

⁶³⁸ Foresteurope.org http://www.foresteurope.org/eng/Commitments/Ministerial_Conferences/Helsinki_1993/, 15.12.2012.

⁶³⁹ Interviewee 6, p. 2, (my translation).

⁶⁴⁰ Interviewee 5, p. 1, (my translation).

I give credit for what environmental organisations have done, but I do not see it that clear cut. During the nineties a lot started to happen in forestry and the development of environmental issues. Before that if we go back to the seventies and the eighties, a lot was done that affected the factories. First the efforts were concentrated on the environmental efficiency of the production plants. Then practices already in place in my view were realised in the nineties so that we got a new Forestry Act and a Conservation Act".⁶⁴¹

This is interesting when we bear in mind the decisions made by the pulp and paper industry after the nineties. There had been a continuous improvement when it comes to the prevention of pollution for a long period of time. It also looks as if the mind-set of people not only changed among environmentalists, but also among people working within forestry. Maybe it could be argued there was a new generation taking over - a generation carrying "green" values. This is something that could be sensed in all the interviews in this study. The generation currently in charge is different from that in the eighties. There seems to have been a truth emerging.⁶⁴² There was a reduction in difference between the employees within the industry and environmentalists.

The effort reducing factory pollution was different from caring for biodiversity in that the pollution coming from the factories was actually visible and scientifically determinable. It was common knowledge that when you approached a pulp and paper plant there was a smell. Likewise the pollution of local rivers close to the production plants was visible. It is also a different task to clear up a production plant that covers a small area compared to introducing sustainable silvicultural procedures to an area covering millions of hectares of land.

⁶⁴¹ Interviewee 5, p. 1, (my translation).

⁶⁴² Luhmann, N, 1995(a), p. 58.

Another interviewee gives a similar view:

"It's true that if we think of the new generation in our company, we have new people with a new attitude when it comes to the environment and environmental issues". "In our environmental department we have people working with a background within NGOs, people that understand their thinking and are good in communicating, people that speak their language".⁶⁴³

This in itself reduces the difference in thinking between businesses and NGOs. It is in line with Luhmann's article on steering.⁶⁴⁴ Employing people with similar education and backgrounds, like people involved with the environmental movements, reduces the difference between the two. Maybe a parallel could be drawn here with politics where most parties nowadays have some sort of environmental programme regardless of ideology. The environmental programmes reduce the difference between the parties.

Observing this from a motivational point of view, one thought that comes to my mind is that there is probably a structural coupling between the businesses and the forestry law act. They have to follow the law in order not to be penalised. This is one aspect. Another interesting point that was brought forth above is the perceived change of hearts among people working in the forestry business. The law is there to be obeyed but politicians have not created it alone, there could have been interaction between them and forest industry professionals but also with NGOs like the WWF and Greenpeace. The change in the nineties, within the industry, is by the interviewee, not credited to NGOs only although the interviewee acknowledges they had an impact.⁶⁴⁵ Likewise credit is given to customers, professionals and before that, the new Forestry Act. A natural explanation for employing people with a background in NGOs is

⁶⁴³ Interviewee 6, p. 3, (my translation).

⁶⁴⁴ Luhmann, N, 1997(b).

⁶⁴⁵ Interviewee 5, p. 1, (my translation).

that they communicate better with people from NGOs as they speak the same language.

Observing this from the contextuality of the business there are some important distinctions to be made at this point. We have come to the mid nineties and there is a new Forestry Act in place. When observing how forest industry professionals look at how forests should be cultivated the assumption had changed. From just clear cutting forests, biodiversity now was accepted as essential for the cultivation. If not otherwise, the new Forestry Act made it likely the pulp and paper businesses would adapt to the modern way of cultivating that took biodiversity and conservation into account. There was a structural coupling between the businesses and the Forestry Act but it was not self-evident how the social and ecological aspects included in the law would be dealt with. From a Luhmannian point of view there was the possibility, or likelihood of minimising difference. From the point of view of Reflexive Law there is stimulation without clear knowledge of what the consequence would be. Even if there is the willingness by the businesses to comply with the law it can only be done based on internal constructs of the organisation in question as is brought forward by Paterson and Teubner.⁶⁴⁶

There was a new law, there was perhaps irritation caused by NGOs and customers but there was also internally a new way of thinking when it came to silviculture. The most important raw material for the industry is timber. The better and the more eco-friendly the cultivation is the more likely it is for the forests to carry on producing timber for generations to come. It is a well-known fact that the outtake of timber is and has been for a long time less than the growth in the Nordic forests. This could indicate it is more about the quality than merely quantity.

One thing is the coupling with law - another is how it will be interpreted. The businesses will always interpret it based on their contextuality and its internal operations. All previous decisions will be carried with them in the baggage. It is, however, not just the law that determines how

⁶⁴⁶ Paterson, J, and Teubner, G, 2005, p. 221.

the industry behaves. NGOs and customers may be as important as the law. Everything seems to happen simultaneously, something put forward in the text by Paterson and Teubner referred to above. There was a new Forestry Act both in Finland and Sweden. At the same time, a new generation of professionals that are more sympathetic to “green values” enters the scene and NGOs and consumers alike try to influence the business and drive change. Could it be that law just gives us the low mark in relation to how to behave? Is law just fulfilling the expectations of society, whatever that could mean? An important part of Luhmann’s systems theory is based on temporality. When proposed legislation becomes enacted it fulfils the three criteria of communication: temporality, sociality and factuality. The new Forestry Act was not created in one day. There was probably a great deal of interaction between members of businesses, NGOs and politicians before the law was enacted. The law was also influenced by Rio 1992. The businesses felt the irritation through their customers but also the NGOs. Did the law just make official what the forestry industry was doing anyway? NGOs and customers were not necessarily happy with the law. In relation to the industry the case may have been the same. If this is the case NGOs would continue adding pressure on businesses in order to change their behaviour. This way, the law, would be just another stop for NGOs on their path towards Sustainability.

If the law is just something legislators enact in order to meet expectations of society, why do business voluntarily accept the situation? As we will see below, businesses do not like a situation when customers start asking questions.⁶⁴⁷ When this is happening they are prepared to listen and to change. One relevant issue here to mention is that businesses accept that they do not always know best. This is in itself interesting. My own impression has been that the industry claims they are the experts. This impression is at least in this case incorrect.

⁶⁴⁷ Stora Enso, <http://www.youtube.com/watch?v=fa2iBZrZYko>, 25.10.2012.

*“We try to make sure we inform about the way we work and we always try to listen and to be humble before the fact that we don’t always know best and that we believe in a dialogue”.*⁶⁴⁸

In fact, Sustainable Development is not bad for businesses. It brings in certainty and this is something businesses like. Sustainable Development translates to less risk and less risk to a higher monetary value of the business. It is a way to reduce difference between the organisation and its environment.

The role of legislators does not have to be as passive as suggested above. Introducing EMAS the voluntary eco-management system in the mid-nineties, legislators tried, and I believe succeeded, in getting businesses to apply a voluntary scheme that helped businesses at least within the pulp and paper industry to administer the new EU directives that strengthened the rules in relation to waste, air pollution, etc. At the same time, ISO 14001 came with similar aims, which is to manage pollution. This kind of approach seems to be exactly what Teubner proposed with his thoughts on regulation⁶⁴⁹ - legal structures should be put in place. Steerable or not this is what has happened.

One problem for businesses and new rules and regulations, is that they do not necessarily know how to deal with, for example, a new directive on waste. How should it be measured? Do they even know how much they pollute? EMAS gave the industry the tool they needed in order to be able to follow the directives. The directive is voluntary in principle but one can ask what the alternative would have been. What is clear is that all of the businesses studied chose to adapt to the EMAS directive or ISO 14001. EMAS is used in the EU and ISO 14001 globally. On the question whether there is a connection between EMAS/ISO14001 and the new EU Directives in relation to environmental reporting I got the following answer:

⁶⁴⁸ Interviewee 4, p. 1, (my translation).

⁶⁴⁹ Teubner, G, Farmer, L, 1994, p. 8.

“Absolutely, EMAS and the ISO certifications are about identifying processes in the operations and to understand relationships between different activities and what effect they have on the environment, the result or the efficiency. This way the systematic review of our factories and the documentation of the EMAS processes were at the same time an educational project for the management to get a picture of how things really work and also for all the employees to understand their role in the different processes and who was responsible for what, so this was in every way a good base for developing the operations further and so to say limit the environmental consequences and to avoid different types of accidents. If one thinks of environmental issues and our industry, the worst that can happen is different kinds of emissions from pulp factories and having structured processes and knowing who is responsible for what and knowledge of how things should be dealt with makes the risk for emissions a great deal less”.⁶⁵⁰

This shows that the industry does not always think they know best and that rules from the outside are not always making things more difficult, but on the contrary help them to achieve more controlled operations. A different view is that voluntary schemes are just a way for businesses to mask the harm they cause.⁶⁵¹ This could be the case but at least the interviewee brings forward the educational aspects of voluntary schemes. There is something for businesses to learn from them. The voluntary schemes like EMAS and ISO14001 require their subscribers to set up a management system in order to achieve something else. It is not just about following specific rules. It is, however, correct that neither ISO 14001 nor EMAS guarantee that businesses become more sustainable. If there is no willingness within the businesses it will not happen.

There is at least a perception that the businesses studied gained from the “external stimulation of internal self-regulating process which, in

⁶⁵⁰ Interviewee 6, p. 1, (my translation).

⁶⁵¹ Barnhizer, D, 2005-2006, p. 688.

principle, cannot be controlled from the outside".⁶⁵² It is clear to me that what the businesses accomplished was based on their internal operations when they at the same time bowed to the external stimulation. The outcome, however, could have been different.

It looks like voluntary regulations actually helped businesses making their operations more efficient and less risky. Businesses do not necessarily know what best practice is. In order to find out, their performance has to be measured somehow. EMAS does not provide a tool for the measurements as such but it tells what should be measured and gives businesses direction when creating their own systems. As seems clear in the quote above, certifications result in better operations. This is good for the businesses and it is good for the natural environment. I will look deeper into what EMAS contains below.

There are three themes in the EMAS regulations: (1) performance, (2) credibility and (3) transparency. In relation to performance, it is built up around policy, targets and actions for implementing, and evaluating the targets. These constitute the main part in all of the Sustainability reports studied. The publication of the reports constitutes a source for anybody wanting to follow the performance of participating companies. The independent auditors are the guarantee for the reliability of the information.⁶⁵³ In order to register for EMAS, the environmental statement of the company needs to be validated by an independent verifier. The EMAS accreditation body, in turn, accredits the verifier. This way at least in principle the published reports should be credible.

EMAS was introduced in 1995 and is helpful in reporting on energy consumption, material efficiency, the use of water, use of land and emissions giving evidence that the businesses obey environmental laws. EMAS is a voluntary scheme. Subscribing businesses will also find it easier to comply with a number of other EU regulations. It should also

⁶⁵² Teubner, G, 1984, p. 298.

⁶⁵³ EU Industrial Emissions Homepage,
http://ec.europa.eu/environment/emas/about/summary_en.htm,
02.05.2012.

increase the performance of the company. This is clearly a way for society to try and steer businesses. One interesting aspect when it comes to both EMAS and ISO 14001 is that the environmental management systems do not specify exactly what the businesses shall do. They only provide a framework for how to manage production processes. This makes it easier for the businesses to implement the schemes according to their own internal operations. This may be one reason for the success of these voluntary systems.

Law seems to play an important role in the work with Sustainability. One interviewee gave the following comment:

“In relation to input and Sustainability what is important is the law, new principles, research and knowledge. What makes it even more important is that our investors have started to look at it and so do our partners asking what do you think about this. Is this something you feel is important? We try to as soon as possible to pick up what is relevant for us meaning that we exclude some of it and this is relevant”.⁶⁵⁴

Again, law crops up as an influential factor but not as the only one. Research, new principles and knowledge seem to be as important. The law may, however, be what ties new principles and knowledge together so that all businesses have to follow the same rules. According to the above quote investors and customers are also important in shaping Sustainability. There is preparedness to listen to what is happening outside the organisation. This may result in insights with the consequence of improved products. It may help the organisation see what it could not see before. Compared to systems that only communicate “about” other systems, organisations that can communicate with other organisations are in a, if not a better position, so in a different position and able to include information from its environment.

When it comes to forestry one should ask the question, “What came first, new practices and knowledge, or the law?” It may well be that the new

⁶⁵⁴ Interviewee 4, p. 6, (my translation).

Forestry Act represented practice already in place, with the addition of the administrative parts of the legislation adding to the enforcement of law. I would argue that when it comes to the decision-making, we have to reach for the contextuality of the organisations involved and solve the problem of the inherent incommensurability between the three pillars of Sustainability. The solution is to find a balance between the three. The balance is to be found through the integration of the three pillars into the operational models of the organisations. In practice this may not mean a balance but a direction towards a balance. When it comes to environmental issues, limits of pollution like emissions and waste are agreed upon. These limits are not fixed but have to become stricter over time. A business can accept a target on limiting its pollution at the same time as an NGO can accept the continuing polluting as a temporary measure. There is a conflict between the two but the agreed direction and the target may paradoxically satisfy the needs of both parties for the time being. The same can be said about social issues. It is the direction that is important not the need to achieve a goal immediately. There is and always will be an inherent conflict between NGOs and businesses. They have different agendas and if the relationship between NGOs and businesses would become too close, then businesses and NGOs could not fulfil their functions as organisations.

When Luhmann discusses steering, he does it in the form of self-steering rather than steering. Steering is about reducing difference. In contextural terms this results in a different observation by the business or by the NGO.⁶⁵⁶ Reducing the difference would mean less conflict. Organisations adapting to their environment would reduce difference but without really knowing what the other party thinks. After all, even if businesses, despite being sustainable, make more money and in this way find a balance between the three pillars of Sustainability, environmental and social NGOs would not necessarily observe their reality in the same way. In fact, they should not observe it in the same way unless by pure

⁶⁵⁶ Luhmann, N, 1997(b), p. 43.

coincidence. For environmental organisations the environment would always come first, whereas for social NGOs social issues would always come first if they would not include making money their “business” as well.

“Absolutely, maybe the strongest incentive for our research and development relates to global warming and the ambition to replace fossil energy with renewable products and it is a very strong incentive. It has through the international treaties resulted in directives on an EU level and local legislation and that is also something working as the driving force for our research and innovations”.⁶⁵⁷

This is an interesting comment showing at least one of the businesses recognising a connection between legislation and Sustainability. However, legislation can be seen as the result of discussions between states, businesses and other non-state actors representing the expectations of society. Exactly what role this business has played in this we do not know. It could also be the case that the awareness of the problem with fossil fuels has been raised by NGOs. What is also important to bear in mind is that for the businesses studied, the raw material produced in the forests can replace not only fossil fuels but also petrochemical products like plastic. It is in the interest of the businesses to develop new applications of the raw material produced. The contextuality of the businesses always has an important role to play. A business in another industry would not necessarily have the same incentive to produce fuel from renewable sources.

There is, however, the possibility that some businesses go further than NGOs or law will commend them to do. This is possible when the solution businesses come up with results in improved economic performance, not despite being sustainable, but because they are sustainable. When environmental and social issues are thoroughly integrated into the operations of the company, paradoxically what happens in a very Luhmannian way is that the business becomes sustainable by not being

⁶⁵⁷ Interviewee 6, p. 5, (my translation).

sustainable. When Sustainability is part of the operations of the business it does not specifically have to bother about Sustainability any more. At this stage they are profitable not despite being sustainable but because of their being sustainable. It is just the case that Sustainability gives the best economic performance. This is the case because other options are no longer there. This paradox can perhaps be explained as follows. For a business the three pillars of Sustainability are given equal weight but they are relying on the economy as the main system. In a similar way a social NGO would aim at a balance between the three pillars putting wellbeing of people first. An environmental NGO would do the same with environmental aims first. Operationally, business organisations are based on the economy, social NGOs the wellbeing of people and environmental NGOs on the wellbeing of the environment. This way, when Sustainability is integrated into the operational model of the organisations, they can carry on their business based on their organisational differentiation.

When it comes to voluntary schemes like the EMAS the issue is different. First, EMAS is not an enforceable law - it is a voluntary scheme. Secondly, it is a scheme that helps businesses to achieve the aim of other laws. It is up to businesses themselves to decide how they will follow the law and EMAS is just one tool to achieve this. Applying EMAS or ISO 14001 does not mean a business is sustainable. It is just a tool helping businesses to become sustainable if they wish. I have referred to the Indonesian company April above, chapter 6.1.3 p. 152. April has been heavily criticised for destroying rain forests and UPM even had to stop cooperating with them. Today they are ISO certified.⁶⁵⁸ In a report published on CNBC in June 2012, April gives a picture of having improved the way they operate.⁶⁵⁹ What they have actually done we do not know.

⁶⁵⁸ April Homepage,
http://www.aprilasia.com/index.php?option=com_content&view=article&id=62:pulp-and-paper-manufacturing&catid=33:operations&Itemid=58, 27.11.2012.

⁶⁵⁹ April, http://www.youtube.com/watch?v=tL_7-03S1kQ&feature=youtu.be, 27.11.2012.

Law seems to play an important role when it comes to the development of Sustainability. It is interesting whether law comes first or if it is the case that law just reflects the expectations of society. Legislation and expectations could also be a simultaneous or a parallel phenomenon. Sometimes the law may not be enacted but there may be knowledge about forthcoming legislation that changes the behaviour of organisations. This way the result could be a consequence of a number of decisions taken in different organisations, not just business organisations but NGOs and legislators alike. Below, discussing NGOs, I will discuss the Forest Stewardship Council and how it as an NGO reacts when the law does not represent the expectations of society, chapter 7.2 p. 184.

What seems to be important when it comes to Sustainability is the globalism of the principle. Sustainable Development was agreed upon within the UN and this should result in legislation in all Member States. The legislation may not have reached the same point in all Member States but there is nevertheless an expectation of this. This means wherever business organisations go they have to at least address Sustainability to some extent. The businesses studied do not necessarily implement exactly the same rules everywhere they operate but there seems to be a tendency towards similar behaviour in all countries they operate in. It may be the case that if Sustainability is seen as a tool of resource management, then it is easier to apply similar rules in all countries.

There are a great number of organisations involved in the preservation of forests and other environmental issues. These are not hierarchical; it is more like a web where all of them are somehow interconnected. Some of the NGOs are institutionalised like FSC and GRI and others are activists like Greenpeace that through campaigning attempt to change the behaviour of businesses. There is not one plan but at least one per NGO meaning that even if the plans would look similar it would not be possible to correctly predict what they would result in. What is even more interesting is the impact of NGOs such as FSC and PEFC when it comes to creating new rules around sustainable behaviour. In Finland

there is a new Forestry Act in the pipeline but the rules established by FSC, and subscribed to by the businesses studied, are more stringent than the law when it comes to biodiversity.⁶⁶⁰

All in all, one can easily get the impression that law, voluntary or not, is just one step in the direction towards Sustainability. It is a way to get the expectations of society verified in writing. After all, environmental law does not emerge suddenly but is a result of a debate. For example the EU directive on Chemicals REACH was enacted after many years of discussions placing the burden of proof on businesses rather than on society.⁶⁶¹ Another question is what kind of effect the directive will have. Could it result in businesses moving somewhere else with less stringent legislation? It depends. When it comes to the pulp and paper industry I do not think that will be the case. On the other hand, all of the businesses studied have production in the emerging markets.

*“...it’s absurd because it is implemented anyway through the FSC”.*⁶⁶²

This verdict obviously only tells us about one aspect of the legislation but sometimes it looks like the law is lagging behind. Therefore the proposition would be that sometimes the law aims at directing businesses in a certain way and that it actually succeeds in doing so but that sometimes it is detached from reality. This is in line with Paterson’s view that we do not know exactly what a law will result in but that it may increase the likelihood for something to happen.⁶⁶³

*“I believe the stick will be there as well in order to make the change faster, this in the form of strengthened legislation, that is what I can see”.*⁶⁶⁴

This quote shows there is a belief that law actually can help in implementing Sustainability in the way that it speeds things up.

⁶⁶⁰ Interviewee 2.

⁶⁶¹ EU Industrial Emissions Homepage, <http://ec.europa.eu/environment/chemicals/index.htm> , 22.10.2012.

⁶⁶² Interviewee 2, p. 6, (my translation).

⁶⁶³ Paterson, J, 2006, p. 35.

⁶⁶⁴ Interviewee 4, p. 8, (my translation).

7.2. Sustainable Development and NGOs

I have referred to NGOs at a number of instances above. The proposition is that NGOs have played a significant role when it comes to irritating business in order to create resonance and make them change their behaviour. The evidence collected suggests this is the case, not only based on verdicts from NGOs, but also through the evidence collected from the businesses studied. The NGOs interviewed differ from each other in perception. WWF gives the impression of being more of a collaborator, whereas Greenpeace gives a more hands on picture. WWF is about conservation when Greenpeace is about action.

Sustainability as a principle does not give a much better outcome than related principles like the polluter pays principle, or the precautionary one. In practice, these have not stopped organisations from polluting. By engaging people, and by encouraging people to stop buying polluting products and by trying to stop businesses from using un-sourced products, NGOs have irritated businesses at least within the pulp and paper industry resulting in less pollution.

Barnhizer concludes laws are needed in order to enforce Sustainability.⁶⁶⁵ It seems that NGOs have largely taken on the role of law enforcers. This way they have claimed legal space. This has not happened without some problems but it seems to have worked. This is the case not only when it comes to forestry, but also when it comes to marine life, wild and cultivated. There is the MSC, Marine Stewardship Council,⁶⁶⁶ for wild marine produce and the ASC, Aqua Culture Stewardship Council,⁶⁶⁷ for cultivated ditto. I have referred to FSC above. FSC has developed a framework on silviculture that tells the subscriber of the scheme how to do. Its competitor PEFC has to some extent imitated FSC, but among NGOs and some of the businesses as well, FSC is considered to be the leading organisation in forest certification. FSC is in

⁶⁶⁵ Barnhizer, D, 2005-2006, pp. 595-690.

⁶⁶⁶ Marine Stewardship Council, <http://www.msc.org> 11.03.2013.

⁶⁶⁷ Aquaculture Stewardship Council, <http://www.asc-aqua.org>, 12.11.2012.

itself based upon the principle of Sustainability; the certification should be based on the environmentally appropriate, the socially beneficial and the economically viable.⁶⁶⁸ Why have all of the businesses studied subscribed to the FSC? At the outset at least in Finland the forest industry claimed there was no problem and that a certification system was not needed at all. If not for any other reason, then at least for fear of losing customers they nowadays all subscribe to the FSC. I will discuss this more below when I examine the impact of customers. These concepts, however, are very much interwoven.

The Global Reporting Initiative sets out what to include in the reporting. GRI was included in the reports of SCA in 2002, Stora Enso in 2003 and UPM first in 2001 to later disappear, and then to be re-introduced in 2011. The initiative was a consequence of the Exxon Valdez disaster in 1989. GRI is not a law, not even a voluntary law. It does, however, require when subscribed to, that businesses comply with certain rules in their reporting. Therefore it is appropriate to deal with it in this chapter. It is a non-profit organisation providing guidelines on Sustainability reporting. GRI, according to its website, is “a global multi-stakeholder network” governed by its board of directors, a technical advisory committee and a stakeholder council. The stakeholder council appoints the board members. The council in turn elects the board. In the council, businesses, non-state actors and what is called mediators are represented. GRI is about how to report, not how to do things. It is not a law but a voluntary scheme with the purpose of encouraging businesses to report in a certain way.

In January 1999 Kofi Annan announced the Global Compact. The intention was to include the Universal Declaration on Human Rights, the International Labour Organisation’s Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and the United Nations Convention Against Corruption into

⁶⁶⁸ Forest Stewardship Council, <http://ic.fsc.org>, 23.10.2012.

the principles on how businesses conduct their affairs.⁶⁶⁹ All of the businesses studied subscribe to the Global Compact. One motivation for this could be investor relations that are dealt with below. On the other hand, the Global Compact supports efforts to manage the workforce in a sustainable manner. The further away from the base, which in this case is Sweden and Finland, the businesses go, the harder it will be to monitor how the workforce is treated. It seems to be important to have a framework to abide by. The Global Compact may be a useful tool when implementing human rights in emerging markets.

*"Global Compact has been one lead"*⁶⁷⁰

The interviewee gives the impression that it is good to have a framework that is accepted by everybody in the field, especially in emerging markets where the local authorities have perhaps not reached the same standard as in the Nordic. In these cases it is good to have something sanctioned by the UN to follow. In terms of systems theory, all these organisations are in the environment of the business organisations. It seems like GRI and the Global Compact gives some sort of security to businesses. Security means less risk. It is less risky for them to comply with GRI and the Global Compact than to ignore them or not to have similar systems at all. At the same time, it helps businesses to manage their operations in a more efficient manner. In terms of self-steering they are reducing the difference between themselves and their environment.

The situation is similar with FSC and PEFC. The quality of their operations improves by subscribing to good silviculture, assuming these organisations provide knowledge of best practice. The competition between FSC and PEFC may also result in improved quality of the best practice directives given.

⁶⁶⁹ The UN Global Compact, <http://www.unglobalcompact.org/aboutthegc/thetenprinciples/index.html>, 22.10.2012.

⁶⁷⁰ Interviewee 5, p. 2, (my translation).

“There were also many contacts with NGOs like Greenpeace which was especially active when it came to sourcing of timber from Russia, both in relation to sourcing and the working conditions of the lumberjacks”.⁶⁷¹

This statement makes it clear that there was some communication between the business in question and Greenpeace. What it does not tell us about is the format of the discussions. Today, at least in principle, the business present in Russia can trace their timber. This case had to do with traceability that will be discussed further below in conjunction with customer impact.

An impression I get is that Swedes are more prepared and open to meet new demands when it comes to Sustainability. This impression is confirmed in an interview with one of the Finnish companies.

“ Swedish forestry companies did much better in the nineties and my theory was that they did better because they were much more used to discussion. They invited these people to discuss, they explained and listened, when in Finland we took to a too high extent the role of do not come here, we do not want to have anything to do with you, it will only cause problems.”⁶⁷²

It is common knowledge that businesses do lobby in Brussels and spend a lot of money on this. Why do they avoid discussions with organisations originated in mass movements? Or why did at least one of the interviewed businesses avoid doing so in the past? One reason could have been fear and/or a feeling that they did not know what to do. It could also have been a generational gap. They just could not communicate with each other. If this was the case then maybe it was easier to take a legalistic view and just claim they are following the law. More discussions could possibly have resulted in less friction between the forestry industry and the NGOs.

This was how it looked in the nineties.

⁶⁷¹ Interviewee 6, p. 1, (my translation).

⁶⁷² Interviewee 6, p. 2, (my translation).

7.3. Sustainability Investors and Auditors

All of the companies studied paid attention to their owners in relation to Sustainability. If they do not reach up to a certain minimum standard then they are afraid their value on the stock exchange will be affected and this is something they want to avoid.

“How do investors experience these issues? I can’t say that I know exactly how but I believe investors require a certain minimum level when it comes to Sustainable Development in order to consider investing in the company and this minimum level is quite high”.⁶⁷⁴

I have not interviewed investors in this work but accidents like the Seveso disaster that resulted in the EU Seveso directive on Chemicals shows how wrong things can go when safety measures are not in place.⁶⁷⁵ Making sure investors know about safety measures taken, could have a positive effect on the volatility of a company’s shares and this would be positive for the company in question. It may be the case that the companies themselves are more concerned about what investors think than investors are concerned about the Sustainability of the companies in question. Pension funds, however, may be more aware of Sustainability than regular investors. The interviewee was not able to measure the risk but the view was that there is a minimum standard that must be achieved and that this minimum standard was high.

“What makes it even more important is that our investors have started to look into this...”⁶⁷⁶

When we think of investors they can be shareholders, bond holders or lenders. From a cash management point of view, the most important of these are the banks as lenders and bondholders. In relation to banks it is a question of having good relations with them as moneylenders. A bad reputation may result in an increased interest rate if the business is

⁶⁷⁴ Interviewee 6, p. 1, (my translation).

⁶⁷⁵ EU Industrial Emissions Homepage, <http://ec.europa.eu/environment/seveso/> 11.04.2012.

⁶⁷⁶ Interviewee 4, p. 6.

considered unreliable. Just the fear of this happening can have a negative effect. The bond market is different. If there is a change in reputation the value of issued bonds may go down because people willing to buy the bond on the stock exchange would expect a higher yield from an asset that is considered tainted by risk. Issuing new bonds would result in a higher yield demand from investors. These propositions are difficult to measure and it could be that fear of what could happen because of bad reputation is what drives it all. It is, however, common knowledge that investors are looking for a good return with low risk. A company that is well managed with few perceived risks when it comes to environmental issues and other hazards would be in a better position than those with a bad reputation.

This way Sustainability becomes important, not just in relation to environmentalists, but the financial markets as well. This has also been noted among NGOs.

"I have noticed that many of these companies have signed the principles of Global Compact". I'm not sure about the strength of this force but others seem to be". "I note that many of them think it is important".⁶⁷⁷

This relates to analysts that analyse businesses from an ethical perspective. The picture that emerges is that investors are becoming more important, even if they to some extent still may be more of a fear factor than a real threat. Uncertainty, however, can be worse than knowing what a bad outcome would be. Using the same kinds of reports makes it easier for the businesses themselves to compare their Sustainability efforts with other companies, not only competitors but others as well.

"The reports are also there for those who want to look at the company from the outside. Analysts and investors use these to a higher and higher extent to evaluate companies because they are a standard".⁶⁷⁸

⁶⁷⁷ Interviewee 3, p. 16, (my translation).

⁶⁷⁸ Interviewee 4, p. 4.

I get the impression it is in the company's interest to publish Sustainability reports in the same manner as they publish their annual reports.

The CSR literature discusses socially responsible investments and there is research suggesting that environmentally responsible businesses perform better than others.⁶⁷⁹ There is, however, a problem from the businesses point of view, something brought forward by the Nestlé CEO Peter Brabeck and this is the fact that only some shareholders are responsible investors.⁶⁸⁰ If companies perform better this should be noticed in the share price, responsible or not. Uncertainty is something that is not directly related to Sustainability at all and it will have the same effect on both traditional and sustainable investors.

It can be argued that an unholy alliance between investors and NGOs has been created when it comes to Sustainability. If one looks at the example with the European publishers that demanded traceability when it came to sourcing of fibre, it is clear that the uncertain environment it created for the pulp and paper industry at the same time would mean that bondholders would demand higher interest for their money. More transparency for bondholders again means less risk, which in turn means lower interest rates. One has to bear in mind that we are looking at risk-adjusted return. Sustainable behaviour is therefore in the interest of bondholders.

Looking at the balance sheet of SCA Ultimo 2011 the outstanding amount of bond issues were €1.631 billion. The total amount of debt was SEK 37.128 million equivalent of €4.153 billion. (€1= SEK8.94⁶⁸¹). The bonds therefore represent about 37.84% of the outstanding interest bearing debt.⁶⁸² The equity amounts to €6.857 billion. It is common knowledge that bank lending is going down and that financing through the bond market is increasing in substance. Not only does the interest rate on the

⁶⁷⁹ Kurtz, L, 2009, p. 251.

⁶⁸⁰ Ibid. p. 273.

⁶⁸¹ Bloomberg, <http://www.bloomberg.com>, 13.11.2012.

⁶⁸² SCA Annual Report 2011, note 25, 102.

bonds affect the price on bonds but also the share price through the profit and loss account.

The equivalent figures for Stora Enso give the following: Equity amounted to €5.959 billion. Interest-bearing debt amounted to €4.373 billion. Money from the bond market to be repaid during the next five years amounted to €2.420 billion.⁶⁸³

At the end of 2011 UPM's equity was €7.477 million. The amount of liabilities attributable to bonds amounted to $€2.126 + 1.525 = €3.651$ billion. The total amount of interest-bearing liabilities amounted to €4.633. Here 78.8 per cent of interest-bearing liabilities were attributable to bonds.⁶⁸⁴

Looking at what impact 10 basis points would have for the companies on the profit and loss statement, it is quite obvious that on the bond market it is good for the businesses, if not to become sustainable, so at least to try to avoid any incidents that would increase the risk of bondholders wanting to sell their bonds. This would immediately result in difficulties when new bonds are issued. At the same time, it means that NGOs and bondholders have similar interests when it comes to Sustainability.

Independent auditors, when it comes to Sustainability, are a relatively new phenomenon. Company auditors started to audit businesses from a Sustainability point of view already in the 1990s. There is, however, a client relationship between companies and auditors and even if auditors audit the performance of businesses, they do also consult on how to do. The auditors are there to make money. Organisations like CSR- originally

⁶⁸³ Stora Enso, http://www.storaenso.com/media-centre/publications/annual-report/Documents/Stora_Enso_E_Financial_Report_2011.pdf, 36, note 25.

⁶⁸⁴ UPM Annual Report 2011.

set up Jacques Delors the President of the European Commission -are owned by its members and are not meant to make profit.⁶⁸⁶

Of the businesses studied, one is audited by CSR and the other two by their regular auditors. A third party not for profit organisation may give an impression of transparency that exceeds the ones audited by the company's regular auditors. All of the businesses have had their forests - or if they do not own forests directly their source is to a high degree - certified by FSC or PEFC. At this level they are all prepared to accept transparency. In this sense it is interesting that they are not prepared to accept transparency in the same way when it comes to auditing their work on Sustainability. In addition the companies' ISO and EMAS procedures are certified. At the same time, it looks like some of the businesses fear giving up control.

7.4. Sustainability Customers and Consumers

Systems theory always includes contingency. Businesses may or may not take customers or consumers into consideration. As concluded before organisations do communicate and therefore there is knowledge within organisations making it possible for them to speculate over consequences. How will other organisations react if we do nothing or how do they react if we do something else?

"It is difficult to verify that our customers become more faithful or that we get contracts because of our work with Sustainable Development" "We have a list of customers that demand that we work with them to create energy efficient or resource efficient solutions to help them achieve their goals, and then we can show we got this contract because of our work (with Sustainability)".⁶⁸⁷

⁶⁸⁶ CSR, <http://www.csreurope.org/pages/en/helpdesk.html>, 14.11.2012.

⁶⁸⁷ Interviewee 4, p. 3, (my translation).

The first quote indicates the uncertainty that exists is in relation to Sustainability. Organisations do not actually know what is going to happen, and facing even greater problems if they do not comply it seems to be easier to comply with their customers' demands. The second quote shows some business-to-business customers actually demanding Sustainability from their suppliers, meaning they would lose business if they did not comply, or at least the risk is there. On the other hand, it seems to be difficult to prove how important it is. At the same time, the quote below shows that there is a dialogue going on within the supply chain.

"We can see that our partners our customers have started to look at this and ask us what we think about it".⁶⁸⁸

It does seem difficult for any business just to ignore Sustainable Development. In this case it seems to be the case that customers do not know but that they have come to the conclusion that they want more information.

Another testament supports the role of customers and consumers.

"When I try to recall the late nineteen nineties I remember there were many environmentally related issues that came through our publishers and their customers the readers. Especially in Germany, many publishers started asking questions and making demands especially when it came to issues in relation to forestry, how the forests are logged and how they are cultivated".⁶⁸⁹

This is a case I have referred to before, chapter 4.1 p. 64. It shows the uncertainty that existed around how the way to manage forestry affected the ability to sell. There seems to have been fear among paper producers that they would lose business if they did not comply. Losing business is obviously not something they wanted to risk. In a sense customers and NGOs are propagating the same issues. They both want to know the

⁶⁸⁸ Interviewee 4, p. 3, (my translation).

⁶⁸⁹ Interviewee 6, p. 1, (my translation).

origin of the printing paper. The way for business to gain long-term access to this knowledge was to build a system that could trace the timber used and to subscribe to the FSC or PEFC.

The problems the industry had with German publishers in the nineties is often referred to as something of a turning point. This is the perception given by the industry. Another view is given by an NGO:

"I think it was the Springer Company that had an environmental director who appeared a lot in the media, but I don't think they really did that much in concrete terms".⁶⁹⁰ "...I don't think that many customers stopped buying, probably no one, what there was, was a diffuse threat so to say..."⁶⁹¹ Both the Finnish and the Swedish pulp and paper industries were dependent on exports, 75-80 % of their production was exported.⁶⁹²

At that point Sustainable Development was not important to these businesses. They probably viewed it as a nuisance from their environment rather than something positive. The important thing for them was to sell their produce. There is a rationale in that if your customers tell you that they are not going to buy your products in case you do not change your methods then you will change your methods. An interesting question for the pulp and paper industry would have been to ask from whom were they going to buy if not from these same companies? There was not a law telling them to comply; they did comply, however, probably out of fear that their business would be hurt. They did it on commercial grounds. This way there was more money to make by complying than by not complying, but they could have come to another conclusion.

"Consumer pressure and the demands of the market economy require that we produce and sell our products while taking into account long-term

⁶⁹⁰ Interviewee 3, p. 7, (my translation).

⁶⁹¹ Ibid. p. 8, (my translation).

⁶⁹² Ibid.

Sustainability. This is why SCA's Sustainability programmes are integrated into our business model".⁶⁹⁴

This company points out their aim at a continuous dialogue with all stakeholders, reaching from analysts to NGOs. They also point out their commitment towards the Global Reporting Initiative that is adapted to their special internal needs. Here, the integration of Sustainability into the business model is also acknowledged. Sustainability is not just something to talk about at dinner parties but a real part of the day-to-day business. The rationale here is as I see it that being at ease with its environment, businesses find it much easier to concentrate on producing what they are there to produce in communicative terms, in the first place.

"Our carrot is growth and profitability, that our customers buy our products because they think they are good".⁶⁹⁵

There is a realisation that end users want sustainable products and that this is one of the driving forces behind the spreading of sustainable products. The proposition is that the closer to the consumer one gets the more Sustainability will be demanded. Legislation, however, as we have seen above, is also seen as important in order to speed things up.

It was, however, not just publishers and their readers that had ideas around Sustainability. Companies such as IKEA had their demands on their supply chain too.

"They had advanced ideas when it came to Sustainability".⁶⁹⁷

It was obvious that there were big differences between our customers; there were many customers who were foresighted and demanding. For example one customer, Ikea, had progressive thoughts when it came to Sustainability and they wanted to follow the supply chain and make demands on their suppliers so I would say a large part of these forces came

⁶⁹⁴ Åström, J, *SCA Sustainability Report, 2006*, p. 2.

⁶⁹⁵ Interviewee 4, p. 8, (my translation).

⁶⁹⁷ Interviewee 6, p. 1 (my translation).

through the customers and this again is related to the consumers and this again has certainly been affected by NGOs”.⁶⁹⁸

This quote highlights the knowledge some customers had in relation to Sustainability. At the same time, it brings forward that the pulp and paper industry was perhaps not that well educated when it came to Sustainable Development in those days, or at least they had not figured out exactly what the market was going to demand from them. Here the importance of NGOs was highlighted. A lot of knowledge seems to be created by NGOs giving them legitimacy.

The threat of boycotts may have been enough to, if not to change the businesses' behaviour immediately, but to at least become aware that their customers and end users thought there was a problem. At the same time, one has to keep in mind the new situation with the Rio documents, and new forestry legislation in both Finland and Sweden that was influenced by what happened abroad. Forestry and paper were not just a domestic issue anymore. WWF started to work with British companies in 1992 making demands. The UK is a bigger market for the Swedish pulp and paper industry than Sweden itself.

The perception I get is that the businesses feared, at least during the nineties, that they would lose customers if they did not subscribe to rules like the FSC or later PEFC had to offer. We have to acknowledge the difference between end users and business-to-business users. If a business-to-business user makes a demand then it is likely to be an either or decision for the supplier in this case for the paper industry to comply. On the other hand, the awareness of the factual situation may be greater when it comes to a business-to-business user. Again, if it is a question of end users some kind of a boycott is needed, typically started by a NGO.

⁶⁹⁸ Interviewee 6, p. 1, (my translation).

“There is no other way than to make money in a sustainable manner. What comes first the chicken or the egg? My view is that in reality there is no way to make profit if it is not sustainable, this is the way it is”.⁷⁰⁰

Here the interviewee communicates the view that the only way to make money is through a sustainable behaviour and again this hidden fear of being caught pops up. Sustainability and transparency seem to go hand in hand. If the operations are transparent it is difficult to cheat.

In his discussion with Greenpeace the CEO of Stora Enso realises *“every time you have to communicate through pressure from our customers it damages the company somehow”*.⁷⁰¹

My conclusion is that the CEO fears bad publicity. The company wants to be in control of their own publicity. One way to avoid bad press could be deception of some kind; the other is transparency and a dialogue in order to prevent it. It may be that the pulp and paper industry is observed by their environment to such an extent that it is much better for their reputation to come out with the truth whatever it is rather than trying to hide anything. Communication with NGOs like Greenpeace also puts some pressure on them. They have to be more professional in their approach.

The cooperation UPM had with the Indonesian company April also showed how things could go awry when one party to an arrangement does not manage to live up to the expectations in relation to Sustainability. In the long run UPM had to buy one of April's production plants and end the cooperation at least partly because of pressure from NGOs and customers.

“When we contemplate cooperation or co-ownership and large investments we spend a lot of time investigating the other party's background. How they

⁷⁰⁰ Interviewee 5, p. 6, (my translation).

⁷⁰¹ Stora Enso, <http://www.youtube.com/watch?v=fa2iBZrZYko>, 25.10.2012.

*function, what kind of a relationship do they have with their stakeholders”?*⁷⁰²

The lessons learnt seem to be that when things go wrong it is just too expensive and for no good. Environmental or social scandals harm the reputation of the company but it also has an effect on how the personnel feel. Not only when it comes to monetary issues, but also when it comes to reputation it is simply better to do things right at the outset.

7.5. Conclusions

We have seen that the environment causing unease among businesses to a great extent correspond with what businesses often call their stakeholders. The obvious addition to this is the law. There is a structural coupling between businesses and strict law but there also seems to be one when it comes to voluntary legal schemes. The obvious rationale of abiding with the law is that it would be just too expensive not to do it.

In addition, voluntary schemes like the FSC also results in structural coupling. To what extent the scheme in practical terms can be argued to be voluntary is another discussion. Other important stakeholders are customers and consumers, investors and what I have called law enforcing and legislating NGOs. To some extent auditors have an impact but so far their impact in the eyes of businesses have been limited. I think, however, that third party auditing will be more important in the future. One reason being that, in a sense, it makes it easier for business to come clean. It gives them a sign to show that they are good citizens. Being a good citizen means there is a good relation between the business organisation and its environment. This in turn means lower risk. The view of NGOs differs a bit. They are more critical and follow what can be considered to be their business, i.e. to criticise businesses.

⁷⁰² Interviewee y, p. 8, (my translation).

The perception given is that businesses want to be at ease with their environment. To be at ease requires the businesses to get to know their environment. One criticism of my approach could be that I take the views of the interviewees at face value. That may be the case but it is interesting to note that the comments are very much the same regardless of which one of the businesses you ask.

The rationale for the behaviour by the businesses studied in relation to NGOs becomes that they avoid the risk involved with not abiding by the views presented by NGOs. This concerns both what I have called law enforcing NGOs and legislating NGOs. In relation to law-enforcing NGOs it is a question of irritation. When it comes to legislating NGOs we are talking about structural coupling. In addition I believe what has happened through FSC and PEFC is a better control of the businesses production process. It results in better management of their resources. When it comes to customers (business-to-business) and end users the rationale is very simple. The businesses do fear they will lose sales otherwise. The most interesting constellation observing how businesses behave is the unexpected alliance between investors and NGOs. Both seem to have the same aim, which is to reduce risk. Obviously this is done based on totally different distinctions. Investors want to be able to predict their income stream, whereas NGOs want to save the natural habitat or improve social conditions.

So what is the main rationale for listening to investors, NGOs and other stakeholders? Fear of the unknown and a wish for certainty could be a plausible reason. At the same time, there is a reduction in complexity. Complexity can be defined as “the threshold beyond which each element can no longer be connected with each other”.⁷⁰³ The reduction simply makes it easier for a business organisation to deal with its environment.

⁷⁰³ Luhmann, N, 2013, p. 125.

8. Observing Organisations in Terms of Organisational Differentiation

The implementation of Sustainability has resulted in similar but not identical decisions among the businesses studied. They all subscribe to the same voluntary programmes and conduct similar activities around Sustainability. In emerging countries they have experienced similar problems, many times I believe due to of lack of experience. UPM had its problems with April, SCA with its packaging plant in China and Stora Enso its problems with land ownership.⁷⁰⁴ Similar circumstances seem to result in similar problems. The closer we look at the three companies the more difference we will find among them, but on the whole it seems like in Sustainability terms, in the end they behave in similar ways.

The distinction used is the one below. It was the last one of the four presented in chapter 5 pp. 130-131 giving the function of the business.

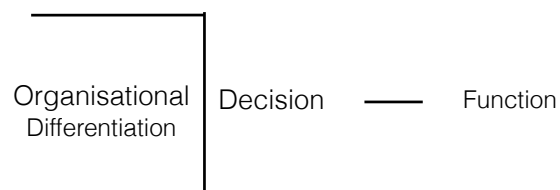


Figure 4

Spatiality plays an important role especially for the traditional pulp and paper companies that have established plantations outside their natural habitat. For Stora-Enso Brazil and Laos are examples of this. Here an interesting combination of environmental Sustainability and social ditto can be found. In Laos, the only way to start cultivating forests was to clear the land of cluster bombs dropped there by the Americans during the Vietnam War.⁷⁰⁵ At the same time, innovations were made resulting in a situation where both trees and food could be grown simultaneously.

⁷⁰⁴ Interviewees 4, 5, 6.

⁷⁰⁵ Ban Cluster Bombs, http://www.copelaos.org/ban_cluster_bombs.php, 11.03.2013.

In addition to giving the local population work on the plantation it also made it possible for them to grow rice on the land.

Luhmann did not include spatiality in his theory even though he acknowledges the need for it when it comes to interaction and art as a social system.⁷⁰⁶ My research has highlighted the importance of contextuality of the businesses studied. This is evident when it comes to land ownership. On the one hand land is not part of society. On the other hand, space does, however, have an impact on the behaviour of organisations. I argued in chapter 3 that the issue of space needs to be addressed through the different sub-systems of society. Borch brings forth Stichweh's solution of a structural coupling between space and society.⁷⁰⁷ My findings suggest that the businesses studied have exported the ancient industrial community to developing countries, not in an identical form, but to a large extent influenced by it. In order to set up plantations the businesses have to take care of social functions that are administered by the state in the Nordic countries. This and Sustainability is something that is difficult. UPM witnessed this when it came to April,⁷⁰⁸ SCA when they at the end had to sell one of their companies in China,⁷⁰⁹ and Stora Enso when they had contracted on land where the seller did not have real ownership of it.⁷¹⁰ As a consequence they did all learn a great deal through the mistakes they made, and this is an important point. Businesses are not perfect.

We have seen above how Sustainability as a concept has evolved, starting as care for the environment, and ending up as a tool for managing the business. Sustainability is something that drives the businesses in a similar direction. Distinctions made by the companies in relation to their environment including their competitors, however, may have been more decisive for what they have become. Sustainability is a paradox in that it

⁷⁰⁶ Borch, C, 2011, pp. 137-138.

⁷⁰⁷ Stichweh, R, 1998, pp. 341-58.

⁷⁰⁸ Interviewee withheld.

⁷⁰⁹ Interviewee withheld.

⁷¹⁰ Interviewee withheld.

in principle means higher costs but in practice it is impossible for these businesses to conduct any business without subscribing to Sustainability.⁷¹¹ At the same time, the more similar they become the more difficult it will be to become profitable. The more they look alike the more difficult it becomes to find difference within Sustainability. What they can do is to adjust their business models in a way that makes them different. What this means is that they may change their ways in terms of Organisational Differentiation. First they can change from producing printing paper to producing e.g. tissues or packaging materials. This can, however, be expressed in a different way. SCA tells us that they “Simplify everyday life of hundreds of millions of people”.⁷¹² This expression is somewhat abstract but when we talk about personal care, items for feminine care, incontinence or nappies it shows that they are offering something more than just the physical product. They are in effect trying to solve a number of people’s everyday problems. When we look at packaging, the development is the same. Packaging is not just about wrapping a product it is about moving the contents safely from one place to another. Change in Organisational Differentiation is not something happening over a short period of time, it is a continuous process. In terms of decision premises it is in the form of a goal-based decision. The organisation has decided to move in a certain direction.

It can be argued that any product fulfils a function and in essence that is the case. Looking at it from the point of view of second order observation, however, a product for incontinence is much more complex than just a piece of wood, as is the consumption of the two products. When it comes to a piece of wood it can be produced by any forest company. It is easy to copy. Incontinence protection is more difficult. In this case the company has to take the expectations of the consumer into consideration to a higher extent. When we look at printing paper, papers can be printed on

⁷¹¹ Interviewees 4, 5, 6.

⁷¹² SCA, http://www.sca.com/en/about_sca/scas-business-and-operations-worldwide/business-concept/, 16.10.2012.

several types of papers. These can be difficult to produce but as long as the paper can be printed on it should work.

It seems to be the case that the three businesses studied have, in terms of Organisational Differentiation drifted apart in the period covered.

Below I will attempt to give a picture of how the businesses studied changed over the years.

8.1 SCA

SCA has transformed from being a pure forestry business to a company involved in personal care products, tissue and packaging.⁷¹³ SCA acquired a company called Mölnlycke in 1975 and entered the hygiene business this way.⁷¹⁴ Pulp had been the main product of the company until the nineteen fifties. This changed in the 1960s and 70s when paper mills were constructed. Newsprint and Kraftliner as well as corrugated board were introduced. In the 1990s, they bought a company called Reedpack making SCA European leader in transport packaging.⁷¹⁵ It seems like there was a direction moving from being a producer of raw material, i.e. pulp, paper and timber towards a producer of “refined products with greater added value”.⁷¹⁶ The understanding of this may be very different from just “greater added value”. When looking at the Organisational Differentiation, there has been change throughout the years. There has been change that is not only related to refining products in order to get a better value, but also towards solving a problem. In this case solving hygienic problems, and until 2012 through its packaging business keeping products intact while transporting them in as small a space as possible. The packaging division was sold in 2012. It may be the case that the same raw material is always used in conjunction with fulfilling the

⁷¹³ http://www.sca.com/en/About_SCA/SCA_in_Brief/History/ 12.09.2011.

⁷¹⁴ SCA Sustainability Report 1998, p. 11.

⁷¹⁵ Ibid.

⁷¹⁶ Ibid.

differentiation of the organisation. There is, however a difference between producing a raw material for someone else to satisfy a function than for the business to do it on its own. The Swedish furniture company IKEA is a good example of this. They are selling furniture to be assembled by the purchaser but this is not really the Organisational Differentiation or function of IKEA. What they do is to design homes in an affordable way. The function of the Finnish lift company Kone is not as much about lifts as about controlling the flow of people.

Silviculture has always been the raw material used by SCA in all their products. This is still the case, but it could also be argued that in fact when it comes to consumer products, the raw material does not have to be wood based. If there was a better alternative this could be used instead. The hygiene products are there to fulfil a personal need and this could possibly be fulfilled in other ways as well. This way there is a mental shift from being a cultivator of wood to a fulfiller of a function. When it comes to Sustainability wood is renewable and fulfils the criteria of being sustainable.

Observing the shift in differentiation from 1998 onwards it can be concluded that SCA had five lines of businesses in 1998: Hygiene Products (Tissue Products, Incontinence, Feminine Hygiene and Nappies), Packaging, Graphic Paper, Forest/Timber, and Raw material/Logistics. In 1999, this changed when Graphic Paper merged with Forest/Timber to become Forest products. The character of this change was perhaps more of mindset than a real change but the company did nevertheless group its traditional produce into one unit. In 2000 the number was reduced to three; Value Added Hygiene Products, Packaging and Forest Products. In terms of cash flow, Hygiene Products represents 34%, Packaging 30% and Forest Products 35%. Looking at net sales Hygiene Products stand for 46%, Packaging for 37% and Forest Products for 19%. In 2001 these figures were 47%, 31% and 22% respectively.

The company has not just shrunken the number of businesses from five to three; out of the remaining ones hygiene has also become more

important. Overall it can be said that there has been a shift from traditional forest products towards becoming a company leaning towards consumers. This may influence the way the company treats Sustainability. On the question is there a relationship between Sustainability and that you are becoming a consumer goods company and the way you apply Sustainability the interviewee says:

“Not really, the requirements are the same. We discussed a couple of days ago what will happen now when that we are selling our packaging company, will it affect our operations and our focus and we concluded it is the same customer base, the same customer as before”.⁷¹⁷

The difference is:

“that they now come in direct competition with other hygiene companies and this makes the way we communicate our work important. It is not enough to be good internally and that we know what we are doing we have to tell about it otherwise the consumer does not know”.⁷¹⁸

It seems to be the case that the closer to the consumer they get, the more transparency is needed. Competition seems to play a role here as well. If the industry has reached a stage where Sustainability becomes a part of the differentiation then they cannot operate without addressing Sustainability. In the first quarter of 2012, SCA announced they are going to sell their packaging industry. This results in a situation where they have their traditional forest based business amounting to some 20% of the net sales and the consumer based business covering the rest.

SCA's competitors have also changed dramatically. Traditionally the forest industry has been based on business-to-business marketing where the buyer of the products is meant to profit from the products as well as the forest industry. This is not the case when you sell to the end

⁷¹⁷ Interviewee withheld, (my translation), p. 6.

⁷¹⁸ Interviewee withheld, (my translation), p. 7.

consumer. In SCA's case they face competitors such as Procter & Gamble and Kimberley Clark - also in the business of hygiene products.

The journey from being a traditional forest business to becoming more consumer orientated has been long. Here it must be pointed out that when SCA has drifted away from the traditional competitors in the Nordic countries they are as noted above approaching similar Organisational Differentiations as Procter & Gamble and Kimberley Clark. Geographically they do perhaps not compete that much yet, but in the future this may become a problem for SCA especially if their profitability does not achieve the same levels as the others. So far if we look at share price levels, SCA has been more successful than both Stora Enso and UPM. SCA traded at around SEK 131.3 on 19 November 2012 and at SEK 85 on 3 January 2000.⁷¹⁹ This amounts to an increase of approximately 54%. UPM traded at around €8 on 16 November 2012, compared to €44 on 3 January 2000, a decrease of approximately 82%.⁷²⁰ Stora Enso traded at €5.54 on 16 November and €18.7 on 3 January 2000, a decrease of approximately 70%.⁷²¹

Kimberly Clark traded on 3 January 2000, at \$63.41 and on 19 November, 2012 at around \$85.⁷²² This amounts to an increase in value of approximately 34%. When it comes to Procter & Gamble the share price was \$ 107.81 on 3 January 2000 and around \$66.82 on 16 November

⁷¹⁹ UK & Ireland Finance <http://uk.finance.yahoo.com/q?s=SCA-B.ST>, 19.11.2012.

⁷²⁰ Nasdaq Nordic, http://www.nasdaqomxnordic.com/shares/Historical_prices/?Instrument=HEX24386, 19.11.2012.

⁷²¹ Nasdaq Nordic, http://www.nasdaqomxnordic.com/shares/Historical_prices/?Instrument=HEX24359, 19.11.2012.

⁷²² Kimberly-Clark, http://investor.kimberly-clark.com/stocklookup.cfm?historic_Month=1&historic_Day=2&historic_Year=2000, 19.11.2012.

2012, a decrease in value of around 38%.⁷²³ In these terms SCA seems to have been the most successful one.

These figures vary a great deal and do not appear very encouraging for UPM and Stora Enso. The dates are random but they happened to be on a day when both UPM and Stora Enso were priced at an all time high. SCA perform better and does well compared to its competitors within the hygiene business as well. When it comes to Stora Enso and UPM it could be argued that their valuations reflect the bad stock markets since the turn of the century. On the other hand, it is clear that SCA has followed a path where the increase in population in emerging countries and the increase in GDP of those countries have resulted in a better situation for SCA.

In functional terms, SCA has aimed at becoming a consumer business. It is close to fulfilling this aim. It may, however, be the case that the rest of the forestry business will not be sold. Even if SCA theoretically could get rid of its forests the likelihood of it doing so is slim. It would be too high a risk to do so. The raw material is too important to change. There will, however, always be the risk that hygienic products will be produced from something else making the forests obsolete. The classical example is calculators. The market leader Facit had just completed its investment in a new factory for mechanical calculators when the electronic calculator entered the market. It did not take long before Facit disappeared.

Of the three business lines, Forest products seem to represent raw materials, or refined raw material, to be used in other functions. Papers for printing magazines, pulp for producing paper, solid wood for wooden products and timber for building materials. The Hygiene products again represent end products fulfilling a final function. They are all consumer goods. The packaging fulfils an end use as well in the sense that it aims to

⁷²³ UK & Ireland Finance, <http://uk.finance.yahoo.com/q/hp?s=PG&b=3&a=00&c=2000&e=19&d=10&f=2012&g=d>, 19.11.2012.

make it possible to shield something when it is transported from one place to another. The waste is then reusable.

The company has evolved from being a traditional pulp and paper company to becoming a player in the area of personal care products. As concluded earlier the closer to the end consumer the company gets the more transparency is needed. We do not know what SCA would have looked like in terms of Sustainability if it had stayed a traditional pulp and Paper Company. Their business today, however, is characterised by the closeness of the end user. We have also seen earlier that businesses tend to listen to their customers.

In SCA's annual report from 1998 it is stated: "SCA is an integrated paper company that produces absorbent hygiene products, corrugated packaging and graphic papers. Based on customer needs, value-added products are developed for private consumers, institutions, industry and trade".⁷²⁴ The corresponding text from 2011 states: "SCA is a global hygiene and paper company that develops, produces and markets personal care products, tissue, forest products and packaging solutions. Their slogan "Making a difference to everyday life" clearly indicates they had already chosen the path to take in 1998. The focus, however, was on products rather than the use of the products. In 2011 they communicate that what they do is about personal care rather than absorbent hygiene products. Early in 2012 the packaging line was sold so what remains are the traditional forest business and personal care including tissue.

8.2. Stora Enso

In 1998, Stora Enso presents itself as an "integrated forest products group that manufactures magazine paper, newsprint, fine paper and packaging boards".⁷²⁵ In 2010, Stora Enso is a global paper, packaging and wood products company producing newsprint and book paper,

⁷²⁴ SCA Annual Report 1998.

⁷²⁵ Stora Enso Environmental Report 1998, p. 4.

magazine paper, fine paper, consumer board, industrial packaging and wood products.⁷²⁶

In functional terms Stora Enso has not changed essentially since 1998 - at least this is the first impression given. It still produces magazine paper, newsprint, fine paper and packaging board. The packaging board has changed into consumer board and industrial packaging and book paper has been added. There is a change in that the areas of business are now divided into paper, packaging and wood products. The company is now more focused than it used to be. Another change is that the company considers itself a global company. Globalisation is something that has followed the three companies since Sustainability was introduced. This I think has had a great impact on how they have behaved. It is just much easier to implement similar rules in all parts of a company when managing it.

Stora Enso also made a big investment in the United States that they eventually sold. The American company Consolidated Paper was bought in 2000 and sold in 2007.⁷²⁷ Stora Enso stayed on as a minority shareholder with 19.9% of the capital.

When it comes to Sustainability, however, there has been prominent change. It is almost as if Sustainability has become the product they sell.

"I think our business idea today is Global Responsibility, it is part of the strategy, it starts with the product that we are dealing with, these renewable raw materials and we go from that it is our idea that the whole value chain starts with both environmental and the principle of Sustainability. We have a CEO that is committed to this in a way that it cannot go un-noticed that it is part of our strategy".⁷²⁸

⁷²⁶ Stora Enso, Responsibility Report 2010, p. 1.

⁷²⁷ Stora Enso, <http://www.storaenso.com/investors/presentations/2007/Documents/transcript-of-conference-call-20-09-2007.pdf>, 25.10.2012.

⁷²⁸ Interviewee withheld p. 6.

Here it is referred to the CEO and his commitment. He has openly discussed in public with representatives of Greenpeace. Their discussion can be found on the Internet.⁷²⁹ I am referring to the same discussion in the introduction p. 4 and chapter 7.4 p. 197. It is said that Global Responsibility has become their business idea and that it is part of their strategy. I believe it has improved the company's public image as well as its resource management. Another question is how big a role could Global Responsibility play in the company's strategy? Could it honestly be their business to be responsible or is it the case that it is the way they conduct their business? I think the latter is correct.

In November 2012, Stora Enso portrays four business areas on their website. The first one is biomaterials and consists of pulp, i.e. a renewable raw material for paper-, tissue- and board producers. They do not provide any figures for the profitability of biomaterials. In this case they are selling a commodity. The second one is printing and reading covering, i.e., what used to be paper, newsprint and fine paper. This line of business represents 51% of sales. Within the line of business, newsprint and book paper has an EBIT (Earnings before interest and tax) margin of 13%; magazine paper 15% and fine paper 22%. The third line of business is renewable packaging. This is perhaps the line that affects daily lives of people the most. 32% of sales came from renewable packaging in 2011. The operational EBIT was 31% for the consumer board and 8% for the industrial packaging. The fourth one is building and living covering traditional raw materials made out of wood for the construction industry representing 15% of sales and an EBIT margin of 7%. The biggest change, however, seems to be in attitudes. The lines of businesses seem to be the same but now they have integrated Sustainability as a part of the business model. In 1998 the EBIT as a percentage of sales was 6.9% for all product groups.

⁷²⁹ Stora Enso, <http://www.youtube.com/watch?v=fa2iBZrZYko>, 25.10.2012.

According to Jouko Karvinen CEO of Stora Enso, Stora Enso is to become a company of renewable materials within the emerging markets and the intention is to accelerate the speed of change.⁷³⁰ This is how Stora Enso differs from the other two companies. Businesswise they still operate within the same lines of business they did 14 years ago.

What they are signaling is that challenging the present way of doing things has become a goal based decision premise. Stora Enso is the one of the studied businesses that gives the impression of actually selling Sustainability and they have made it their trademark in a sense. The “Think Different” campaign is designed to challenge old ways of doing things and this could result in a better result also economically.

8.3. UPM

Until recently UPM gave the impression of being a traditional forest company and in many ways it still is. However, a remarkable change in direction has taken place. UPM nowadays call themselves the Biofore Company - *biofore* being a composite neologism consisting of biology and future. While SCA moved towards the end consumer, UPM is trying to innovate new products using wood as the base. In 2011 paper still represents 69% of sales, Energy and pulp 15% and engineered materials 15%. The paper sales consists of magazine papers, fine papers, newsprint and speciality papers, all very traditional products. This does not mean there would not be any innovations among those products but what they are doing in functional terms is very much the same as it has been for a long time. One novelty is biofuel based on waste from the pulp production. A strategic decision taken by the company, was that biofuels would only be created from non-edible materials.⁷³¹ This way, the likely criticism of the company using nutrition that could be consumed by the

⁷³⁰ Tekniikka ja Talous, www.tekniikkatalous.fi/metsa/stora+enso+rakentaa+16+miljardilla+kar tonki+ja+sellutehtaan+kiinaan/a791979, 20.03.2012.

⁷³¹ Interviewee 6.

human body, is avoided. One reason for going into biofuels is to decrease the use of fossil fuels. Here is a coupling to the EU and its support for renewable energy.

In the annual report of 2001, it is stated, “UPM-Kymmene’s goal is to be one of the leading companies in the paper industry and to achieve growth exceeding the industry’s average”.⁷³² It is also stated that they want “to be the preferred supplier for its customers, to offer its employees rewarding work, and to increase its shareholder value”.⁷³³ The company’s businesses focus on printing papers, on speciality papers and converted products based on the Group’s own development work and on wood products. In 2001, UPM was to a high extent a traditional pulp and paper company trying to make the best out of the situation. What also happened in 2001, the dotcom boom and the subsequent crash, also took place. After this the consumption of paper started to fall, and in the long run there was not enough space for all the businesses in the industry.

In 2006, the company had three lines of business within paper, i.e. magazine papers, newsprint and special papers. In addition they had converted products such as self-adhesive label stock. They also had traditional wood products and finally other operations. What is interesting is that they now see wood procurement, energy and logistics as “other” operations. When SCA is approaching the end user UPM, however, is introvert in that they are focusing on their internal operations. What the company communicates is a realisation that something has to change in order for them to survive, but that the awareness of what the change should be is not clear yet.

In November 2012 the picture has changed a lot. When they talk about biofore they mean biofuels, bio composites, bio fibrils, bio chemicals and new areas.⁷³⁴ They have decided that they are going to go into new

⁷³² UPM Annual Report 2001.

⁷³³ Ibid.

⁷³⁴ UPM,

<http://www.upm.com/EN/INVESTORS/Documents/Company%20Presentation%20-%20November%202012.pdf>, 20.11.2012.

businesses based upon their knowledge of forestry and pulp and paper. This is a decision in terms of a goal based decision premise but we do not know yet what they will achieve. Their target is that within five years 50% of sales will come from growth business like biofuels and other innovations. Exactly where the growth is going to come from is not that clear and beyond five years is a long time anyway.

Between 2007 and 2011, however, there was an increase of sales in the growth business area of fifty per cent the EBITDA margin being 23% and the return on equity being 15%. This can be compared to the traditional mature businesses with a decline in sales of 10% and an EBITDA margin of 5%. This shows the company had to change in order to carry on its autopoiesis. The interesting thing is to see how they are going to make it.

What is striking is the difference between UPM and SCA. SCA is clearly a consumer business, whereas UPM is basing its future on developing new products using renewable raw material. This business is introvert when SCA's business is extrovert. Both companies build their future on Sustainable Development. They both used to be traditional pulp/paper/forestry businesses. Now one of them is a consumer business built upon hygiene products, whereas the other one is aiming to become an innovator based on renewable raw material.

8.4. Conclusions

In terms of differentiation, the three businesses have evolved into three distinctly different operations. SCA has become a consumer business fulfilling the needs of people in their daily life when it comes to hygiene. They have chosen a line where the increase in population and the ageing of this population means it is likely the demand for their products will increase. The roots of the businesses are in forest cultivation and paper. This is, however, not a requirement for fulfilling the purpose of the business. If other materials are found that can satisfy the same function there is no need to stick to wood as a raw material.

Looking at UPM, the situation is quite the opposite. UPM is becoming a company that evolves by producing new products fulfilling new functions based on wood. This concerns both the creation of new forms of renewable energy and new materials such as plastic. Where SCA is aiming at consumers, UPM is aiming at the energy market and new raw materials. It is true that consumers buy energy as well but UPM's customers, when it comes to energy, are likely to be other businesses. Looking ahead it is more difficult to predict the future demand for UPM's products than SCA's.

Where does this leave Stora-Enso? Stora-Enso seems to be a traditional pulp and paper company in that it produces for the businesses to business market. They are, however, growing in the packaging business. Consumer board that is a part of packaging is also the most profitable part of the business. It has also implemented the principles of Sustainability into its management system.

All the businesses studied have similar programmes and decision premises when it comes to implementing Sustainability as a part of the organisation's operations. What is interesting, however, is the divergence when it comes to differentiation. SCA is innovative when it comes to satisfying a limited number of functions aiming at end consumers. UPM is innovative when it comes to developing new functions based on wood. Stora Enso has decided to make renewable products their business.

Part IV

Theory, conclusions, consequences

9. Simultaneous Processes of Sustainability and Organisational Differentiation – A Theory of Becoming

We have so far discussed the becoming of the legal principle of Sustainable Development, the methodology based on Luhmann's systems theory, the method in the form of different kinds of observations; the structural and the processual evolvement of Sustainability and the motivational/rational understanding of the same. In addition we have looked at how the business organisations studied have evolved from the perspective of Organisational Differentiation i.e. how organisations evolve in functional terms. Below I will make an attempt to develop a theory of becoming in relation to Sustainability based on how business organisations react to Sustainability.

The theory is based upon the contexturalities of the NGOs on the one hand and the business organisations on the other. Both are organisations but they play quite different roles in society. The NGOs with their origin in social movements, are there to try to change not only the behaviour of business organisations, but society at large even though we are not looking at society at large at this instance. The function of these NGOs is based on either environmental or social issues. In order to continue their autopoiesis there needs to be a reason for their existence such as the protection of the natural habitat. The NGO's Organisational Differentiations evolve over time and they can change shape accordingly in order to fill a viable function.

The contexturalities of the businesses studied evolve with how they behave in accordance to what happens in society in relation to Sustainability, but also all other observations in their environment and internal operations that result in decisions. They are there to serve a function that may or may not attribute change in society at large. This function is based on their Organisational Differentiation. For SCA this

means fulfilling needs when it comes to hygiene. For UPM it is partly about energy supply but also about innovation when developing plastic products out of wood. It is, however, also the production of pulp and paper. On Stora Enso's part the function relates to packaging but also pulp and paper.

In order to focus on what theoretical consequences the research may have, it is appropriate to go back to the research questions - how do business organisations react to Sustainability and what factors do they take into consideration when deciding on Sustainability? - and the theoretical gap the research may fill. The main focus has been on businesses but the questions are just as valid for NGOs. All organisations are decision-making entities that somehow take their environment into consideration. Otherwise their autopoiesis would close down and the organisation would cease to exist.⁷³⁶ Organisations need stimulation from their environment in order to evolve. There is, however, no direct consequential relationship between what happens in the environment of organisations and the way they behave. It is always up to the organisations themselves to construct their reality and behave accordingly- they could always have decided differently. The theoretical gap to fill was to investigate whether there could be organisation theory within the theory of social systems that, in a better way than traditional problem solving based theories, could take ecology into account. Sustainable Development as defined in the Rio documents contains ecological, social and economic issues and was therefore a natural choice to look into.

"Protests are communications addressed to others calling on their sense of responsibility".⁷³⁷ I used this quote when I discussed irritation, see p. 61. I believe NGOs such as WWF and Greenpeace originated in protests or a concern for the natural habitat. The way they react to Sustainability is by promoting it. It could be argued that this is the business of

⁷³⁶ Luhmann, N, 1987, p. 335.

⁷³⁷ Luhmann, N, 2008, p. 125.

environmental and social NGOs. As any organisation they are dependent on funding. Without a sound economy they cannot survive in the long run. There are of course other organisations promoting Sustainability; international organisations such as the UN, ISO, ILO and employers' organisations certainly do. The main objective of these organisations, however, is not Sustainable Development. Whereas Greenpeace is a campaigning organisation trying to stop something happening, WWF is an organisation promoting conservation of wildlife.⁷³⁸

I referred to the views below by Luhmann in the introduction: "As a consequence of ecological ignorance, problems can be ignored if they do not fit the decision-making process".⁷³⁹ In effect this means businesses can ignore ecological issues if they are not against the law.⁷⁴⁰ Luhmann is advocating an organisation theory that, in a better way than classical problem-solving theories, takes the ecology into account.⁷⁴¹ He suggests this could be done through observing how ecological problems are dealt with. To what extent are businesses aware of ecological and social problems and when they are do they acknowledge the problem really is a problem? In order to be aware of a problem it has to be observed by the organisation. They cannot see what they cannot see and when they can, there will always be something new they cannot see. There will always be a blind spot.

Awareness is something that evolves over time. Awareness of what one could ask. The principle of Sustainable Development and its application did not look the same in 1992 as it does in 2012. As long as there is a discrepancy between the second order observation of the NGO and the business organisation in relation to Sustainability there will always be a reason for irritation. In effect lack of awareness results in lagging behind. NGOs always seem to be more aware of environmental problems than businesses. The awareness of a problem is put on businesses' tables by

⁷³⁸ Interviewee 2.

⁷³⁹ Luhmann, N, 1998(a), p. 107.

⁷⁴⁰ Ibid.

⁷⁴¹ Ibid.

NGOs, acting both as promoters of a problem and quasi legislators. Awareness and acceptance of a problem, and a consecutive communication removing it, would mean NGOs would run out of business.

The picture below shows the flow of the *simultaneous processes of Sustainability and Organisational Differentiation* I have identified. (See figure 6 below). In the *SW* corner of the picture we have NGOs that I have named quasi-legislators of Sustainability. They set up a framework for creating rules around a certain topic like the certification of forests. In effect, they are making the appropriate inappropriate, outside the framework of state legislation. In the *NW* corner we have ignorance that NGOs through irritation moves towards awareness of there being a problem. I have called these law-enforcing NGOs. Awareness or acceptance that this is the case is needed in order for businesses to change. In the *NE* corner Sustainability becomes a resource management system resulting in similarity and less complexity among the businesses subscribing to it. In the *SE* corner businesses subscribing to Sustainable Development change the function of their businesses. These processes are simultaneous.

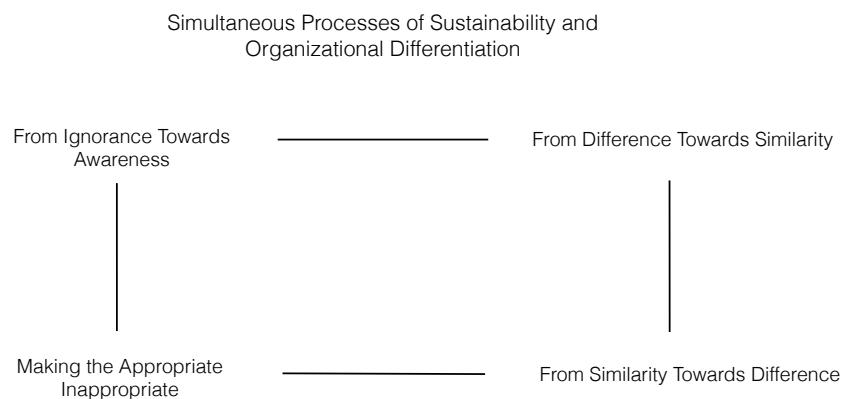


Figure 6

9.1. Making the Appropriate Inappropriate

Irritation is not the only way for NGOs to achieve change in behaviour among businesses. By supporting the creation of NGOs with a specific task, NGOs can achieve the formation of an apparatus that in itself creates new rules and regulations. The Forest Stewardship Council is an example of this. WWF, Friends of the Earth and Greenpeace were among the founding members of the FSC.⁷⁴³ By creating resonance both WWF and the FSC have achieved a situation where all of the businesses studied subscribe to the rules of FSC or its rival PEFC. This means all of the wood bought or cultivated by the businesses will either follow the rules and regulations promoted by FSC or PEFC. These rules are stricter than the requirements of national legislation. There is a structural coupling between the studied businesses and FSC or PEFC.

It can be argued that the establishing of NGOs like the FSC and the PEFC has moved the power of legislation away from Member States of the UN to non-state, often global organisations. The arrangements, however, are contractual through the certification process and therefore in conformity with the legal system. There have been voluntary schemes like ISO before but there seems to be a closer relationship between ISO and the state and businesses than is the case with organisations like FSC. The apparent lack of democracy has been dealt with within the FSC in the way propagators of economic, social, and environmental issues are represented in their deciding bodies. The way it is done attempts to ensure all three pillars of Sustainability are represented equally. It is interesting to see how the rules set up in Westphalia in 1648 do not suffice anymore. The UN is there, and soft law created within the UN should find its way to the Member States but this is not always enough. New hierarchies have been born that take over what states traditionally should care for.

FSC and PEFC are not the only NGOs of this type. The Marine Stewardship Council certifies fishing methods giving end customers the opportunity to

⁷⁴³ Rainforest Action Network, <http://ran.org/rainforest-action-network-statement-fsc>, 23.10.2012.

determine whether the seafood they buy is caught in a sustainable manner.⁷⁴⁴ When it comes to cultivating seafood there is the Aquaculture Stewardship Council.⁷⁴⁵ It is not only about the end consumer getting a safer product. The certifications also give businesses the opportunity to label their products as safe. Illegal logging is a huge problem. Certification is a way for businesses to show that they can trace the origin of their raw material. It is therefore often in the interest of businesses to have their products certified.

This brings us into the territory of law making. Strictly speaking the way rules are created and shaped with the help of NGOs is not part of the legal system but as concluded above there is a contractual relationship though the certification process. As concluded in chapter 3 p. 26 this is not at odds with Luhmann's,⁷⁴⁶ or Teubner's,⁷⁴⁷ thinking. It is in many ways intertwined with it. There is a structural coupling between NGOs and the legal system. International law is based on the treaty of Westphalia made in the aftermath of the religious wars that ended in 1648. Each country is seen as a totally independent entity with a monopoly when it comes to legislation within its borders. Businesses used to be based on the same premises in that they were seen as belonging to one state. That is not the case any more. When looking at Sustainable Development the issues are global in character. In principle each and every country that has signed should also apply the Rio Documents, with corresponding local legislation enacted. This is not necessarily always the case. The UN has given NGOs the opportunity to participate in the law making within the UN. At the same time, NGOs have participated in setting up new NGOs with the task of creating rules through voluntary schemes coupling businesses to their regimes.

⁷⁴⁴ Marine Stewardship Council, <http://www.msc.org>, 12.11.2012.

⁷⁴⁵ Aquaculture Stewardship Council, <http://www.asc-aqua.org>, 12.11.2012.

⁷⁴⁶ Luhmann, N, 2004, pp. 173-210.

⁷⁴⁷ Teubner, G, 1997, pp. 3-28.

It could be questioned to what extent this voluntary law making is democratic? At the same time, democracy is not a requirement in international law. The reason businesses subscribe to voluntary law making seems to have been a reaction to the views of NGOs promoting Sustainability and customers, but not only the customers, nowadays also bondholders of listed companies. The way for businesses to accommodate this rather new situation is to participate in the debate. This results, if the business so decides, in a situation where the voluntary scheme becomes a part of the businesses decision premises. There is a structural coupling between the business studied and the scheme through the way the business subscribe to the scheme. The similarity created has to become difference in one way or another in order for the business to stay profitable.

The creation of these rules and regulations removes the prerogative of law making from nation states. This is not always accepted by business-leaders as we saw in the footnote in the introduction p. 5. Businesses need to take these schemes seriously. They should result in more certainty for the businesses. A potential equivalent NGO to the FSC could be within mining, an area with potentially extensive problems. An example of such a problem is the Finnish nickel mine (NI) Talvivaara⁷⁴⁸ that turned out to be an environmental disaster. A certification could provide the transparency needed for the business to regain public confidence.

9.2. From Ignorance Towards Awareness

Disappointed with the law and behaviour of businesses, NGOs are taking things in their own hands, trying through irritation to create resonance among businesses in order for them to change. In this manner these NGOs become law-enforcers.

⁷⁴⁸ <http://www.talvivaara.com>, 30.04.2013.

“A system can reproduce itself only in an environment. If it were not continually irritated, stimulated, disturbed and faced with changes in the environment, it would after a short while terminate its own operations”.⁷⁴⁹ I referred to this quote by Luhmann when discussing irritation, chapter 4.1 p. 59. Organisations need stimulus to evolve. In relation to Sustainability this has come partly through the legal principle itself, partly through state legislation, but also through voluntary schemes and then by the work done by NGOs in order to make businesses aware of problems.

There is some evidence that denying environmental problems have been an issue as the following quote shows: *“I can still remember that the official view of the Finnish Forest Industries Federation was that there is no problem unless you discuss it”*.⁷⁵⁰ This is in line with Luhmann’s thoughts - as discussed an organisation can always decide in a different way. By ignoring the problem it can and will behave differently.⁷⁵¹ By observing and seeing Sustainability businesses may reduce, difference between themselves and their environment.⁷⁵² This is in line with self-steering. Organisations are minimising irritation and risk by reducing the difference between themselves and the environment. They obviously cannot become the same without disappearing altogether.

Practice seems to show that businesses tend to act later rather than sooner. In fact, if they would act sooner there would not be a reason for the environment to protest. An early example of when the industry changed its mind was the Äänekoski project in Finland when Greenpeace had protested against a new pulp producing plant. It was feared that important birdlife would be destroyed. At the end the head of the project, Mr Poranen, invited Greenpeace for discussions that resulted in the plant

⁷⁴⁹ Luhmann, N, 1987, p. 335.

⁷⁵⁰ Interviewee withheld, p. 1.

⁷⁵¹ Luhmann, N, 1998(a), p. 107.

⁷⁵² Luhmann, N, 1997(b), p. 46.

being built, but the pollution-levels staying much lower than feared. This happened in 1986.⁷⁵³

I believe the irritation caused by the NGOs has had an immense effect. The businesses have thought they cannot act if they do not become sustainable. Reporting standards such as the Global Reporting Initiative are good to a certain extent. It makes the organisations think about Sustainability. There is, however, the risk that the reporting itself becomes the important issue, not Sustainability. Sustainability is something that has evolved and it should be given the chance to carry on evolving. Too strict a reporting structure may result in stagnation and that is in no ones' interest.

As we will see below, awareness may result in similarity when it comes to Sustainable Development.

9.3. From Difference Towards Similarity

Organisations are about resource management. As I have concluded before, it can be argued that businesses are used to abide by the law. When it comes to soft law the situation is different. According to Luhmann's theory of social systems, the way businesses can address Sustainability is through their internal operations. Even if we are talking about structural coupling this is still through its internal operations based upon decisions made.

In order to manage Sustainability in a meaningful way, when looked at from an organisation's point of view, it has to be measured. This was initially done with the help of eco-management systems such as EMAS. When there were meters in place it was possible for businesses to measure their waste and improve their performance by reducing waste. That resulted in savings, visible in the profit and loss accounts. They improved control of their operations by including Sustainability in their

⁷⁵³ Interviewee 2, p. 1.

business model. Sustainability results in organisations using raw material wisely. It also considers human capital to be a real resource. Lowering the risk for accidents means cost savings, not only medical costs but also when it comes to insurance payments and efficiency. Sustainability is not a recipe for success but without it, it is difficult to succeed in the long run.

The question of whether Sustainability means more profit or not has been touched upon a number of times above. Among the businesses studied the conclusion has been that Sustainability is the only way to make a profit in the long run, chapter 6.3 p. 163. The proposition is that otherwise society would protest and make sure it is less profitable for businesses not to become sustainable. The extrovert dimension of Sustainability presents the organisation to the environment as a good citizen. An organisation may try to look more sustainable than its competitors or it may want to give the perception of doing things the right way. This may result in a competitive advantage but it is not certain.

So what is Sustainability about in the end? Is it a “green movement,” an idea supporting the poor or what is it? It is obvious that Sustainability means different things for different people. At the heart of it lies the idea of finding a balance between the economy, the environment and social issues. For businesses this may result - and this seems to be the case - in a better utilisation of raw material, but it may also result in a better utilisation of people - with this I mean a committed and healthy workforce. There does not seem to be any long-term conflict between the three pillars of Sustainability as long as there is a balance between them.

The businesses studied have managed to evolve operationally in a manner allowing for decision programmes that draw, not just on function systems as the economy, but also on other function systems. This is what Åkerstrøm Andersen called the polyphonic organisation.⁷⁵⁶ The ability for business organisations to draw on several function systems is interesting. Even if business organisations are polyphonic, any

⁷⁵⁶ Åkerstrøm Andersen, N, 2003(b), p. 167.

interpretation is still based on the internal operations of the organisation in question. It is interesting to compare this with Paterson and Teubner's article, *Changing Maps*.⁷⁵⁷ Intuitively there seems to be a conflict between these but I do not think there is. I would argue the polyphony is a privilege of organisations not function systems. The difference is that organisations can communicate with other systems, whereas function systems cannot. In "*Changing Maps*" the starting point was self-steering.⁷⁵⁸ In the same manner as in this thesis the presumption was that difference approached similarity.

The legal code is legal/illegal. As we know this does not cover just/unjust. In order to rectify unjust verdicts appeal courts do bend in order to make the illegal legal and as a consequence making the law just.⁷⁵⁹ In the same way, even if the original primary function system for a business was the economy, businesses have to adjust to their environments in order to keep their autopoiesis going. It is the businesses of Greenpeace, or one of its businesses, to irritate businesses in order for them to behave in accordance with the expectations of society or perhaps to make them realise they do not behave as expected.

This results in similarity. The three business organisations studied look very much the same. Indeed Luhmann discusses self-steering as a process resulting in similarity, but not only similarity, it results in difference at the same time.⁷⁶⁰ Businesses accepting Sustainability, not just the strictly legal part of it but the voluntary parts as well, do approach similar views, but from different contextualities. This conflict-avoiding behaviour results in all the participating companies appearing similar when it comes to Sustainability. This is very much in line with the thoughts propagated by New Institutionalism. Visiting "*The iron cage*", DiMaggio and Powell pointed at the isomorphism that rules and legislation, but also

⁷⁵⁷ Paterson, J, and Teubner, G, 2005, pp. 215-237.

⁷⁵⁸ Paterson, J, and Teubner, G, 2005, 222.

⁷⁵⁹ King, M, and Schütz, A, 1994, p. 281.

⁷⁶⁰ Luhmann, N, 1997(b), p. 54.

professionalism and uncertainty, brought with it.⁷⁶² Rules and regulation become something that affected organisations have to interpret, and interpreting the same rules result in, if not identical behaviour, so at least similar. These rules, regardless of being compulsory or voluntary, can be said to be a result of structural coupling. The view proposed by New Institutionalism suggests that organisations become similar. This I would argue would result in non-profit making organisations. I believe my research shows that the only way for organisations within an industry to survive is to distinguish themselves in the form of Organisational Differentiation providing different functions. In a free market economy identical businesses would result in lack of profit, profit needed in order to evolve.

For the businesses studied Sustainability has become a resource management system that has made it possible for them to produce their products in a more efficient way, when at the same time caring for the natural environment and taking social issues into account. For a sustainable business it is easier to employ people because people presumably like to work in companies that care for the environment and treat their employees in a good manner. It is also easier for companies that are sustainable to get funding from the money market, presumably because the risk in connection to sustainable companies is perceived to be lower than in other companies.

9.4. From Similarity Towards Difference

“Organisations have emerged that are equivalent to function systems”.⁷⁶³ In fact, as we have seen, business organisations can perform a number of functions. The way organisations differentiate themselves is through distinctions that result in them providing a function or a number of

⁷⁶² DiMaggio, P, and Powell, W, 1983, p. 150.

⁷⁶³ Åkerstrøm Andersen N, 2003 (b), p. 152.

functions. This way the organization “recognises what it is doing”.⁷⁶⁴ This is, however not a function system. Organisations are systems. Law as a legal system is a function system. The function of organisations is related to the Organisational Differentiation of the company. The function changes constantly in line with the decision premises. An example of this is the lift maker Kone,⁷⁶⁵ mentioned in chapter 8 p. 204, who is dedicated to “people flow” moving people from one level to another. This is what they communicate, or more exactly, my reading of what they communicate. The business is not there to produce lifts as such, even if it is necessary in order to fulfil their function. For the businesses studied these functions vary. For SCA, the function is about personal care, tissue and forest products. Personal care is much more abstract than forest products. For UPM, the function results in them being the Biofore Company, the neologism consisting of biology and future, meaning they are producing through innovations originated from research around wood. This does not tell us what they are going to produce in the end. As we have seen before it is a mix of traditional forest products, energy and materials made of wood. When it comes to Stora Enso they present themselves with the slogan “Rethink” with the aim of producing in a sustainable manner. This is obviously not a function in itself, it just describes a manner of doing things whatever function they aim at serving. As we have seen, Stora Enso is to a high extent a business concentrated on packaging. This is the way the studied businesses portray themselves as different compared to each other, but it is not just about a slogan. When compared they have actually become very different.

To begin with the studied businesses were all forest companies. This has over the years changed so that there are a variety of functions for the businesses to fulfil. One of them, however, SCA, is not classified as a pulp and paper company on the stock exchange any more, it is considered to

⁷⁶⁴ Luhmann N, 2005(c), p. 85.

⁷⁶⁵ Kone, <http://www.kone.com/corporate/en/Pages/default.aspx> 09.10.2012.

be a consumer business.⁷⁶⁷ Businesses with a similar starting point turn out to become very different when we observe them from the perspective of Organisational Differentiation.

A well-known example of when change in function through a new distinction and Organisational Differentiation has made one company successful and another one less so is the creation of the i-Phone by Apple and the almost arrogant attitude by Nokia in not changing the function of their mobile phones. It would have been difficult for Apple to enter the mobile phone market by doing the same as the market leader. They did it by being different. Here the second order observation was as different. They saw what Nokia could not see. The produce of the businesses is not just a physical product and it is not a service in its own right or a physical product complemented by a service. The produce is a function based on the distinction Organisational Differentiation/decision. This is on an abstract level but what is important is that any physical product or service relating to it, has to serve the function. Here the i-Phone became very different from Nokia's traditional phone that originally was made purely in order to make phone calls.

I have asked the question whether a business can make money by becoming sustainable. The answer is that the only way to become, and stay profitable, is through becoming sustainable. At the same time, I have also argued that if all businesses become sustainable, this would not as such guarantee profitability. However, at the same time not becoming sustainable would result in even lower profit. Profit is generated by becoming different and similar simultaneously.

This research cannot claim there is a connection between becoming similar and different. What it can claim is that the businesses studied have become very similar when it comes to Sustainability and dissimilar when it comes to Organisational Differentiation. One has to keep in mind that similar does not mean exactly the same and that difference does not lack similarity altogether. It is a process that is pushing businesses in

⁷⁶⁷ Nasdaq Nordic, <http://www.nasdaqomxnordic.com/ak>, 12.11.2012.

different directions. The only way to survive being the same is to become different simultaneously. At the same time, the closer we look at how Sustainability is communicated by businesses, the more likely we are to find difference. Sustainable Development is always interpreted based on the contextualities of the organisations and cannot therefore become identical.

Similarity is one direction. Luhmann's theory of social systems, however, is a theory not about similarity, but difference. There is clear evidence that the studied businesses (that admittedly do not cover the whole of the market) have drifted apart in terms of the function or functions they have taken up. They have differentiated themselves organisationally. Systems are dependent on their environment. Without an environment there would not be a system. A system equals difference. This means that to the extent that a system becomes similar, and it does in order to reduce risk, it has to differentiate itself in order to continue its existence. "The system clings on to its environment with a longing whose object is precisely *the maintenance of this difference*".⁷⁶⁹ We therefore have a flow of similarity and difference simultaneously. The only way for businesses to stay profitable is by becoming similar and different at the same time.

9.5. A Continuous and Simultaneous Becoming of Systems

Where does this leave us? I think the research shows that businesses have to adjust to the demands of their environment if they want to survive and be what could be considered successful. Businesses carry their past in the baggage and fill it with whatever they come across. They, however, have a choice to make. It would be naïve to think Sustainability is a book already written. Businesses can only make decisions based upon what they see. Each new decision potentially causes a reaction in the environment of businesses. In advance we do not know what that could be. We have seen what happened with the old Nordic forests. They

⁷⁶⁹ Philippopoulos-Mihalopoulos, A, 2012, p. 27.

were saved as a consequence of the irritation caused by NGOs. From the businesses' point of view it was cheaper to save the forests than to lose their reputation. In Indonesia, on the other hand, rainforests are still destroyed even if some improvements have been made. One change in attitude is the comments by the owner of April who concluded he had never learnt as much about Sustainability as during the collaboration with UPM.⁷⁷⁰

If loss of reputation, perceived problems on the bond market, threat of losing customers,⁷⁷¹ and difficulties in employing good people are included in what businesses observe, then it makes sense for them not to fight Sustainable Development. On the contrary, in contextural terms it is the (bounded) rational way forward. This is how organisations construct themselves. Organisations with their unique contextuality will adjust themselves to what society at large will demand from them. When I say at large I mean that there cannot be one instance that will judge what is right and wrong. Simply, when organisations are "wrong" there will be enough pressure put on them to change their behaviour.

The role of EU directives and regulations cannot be ignored. All of the businesses studied have adapted to these regulations and the conclusion could be drawn that the Resource Management System of SCA and the Environmental Management system is a consequence of regulations. It could, however, also be argued that the law has forced the businesses to create these management systems but that the systems nevertheless results in a better economy because the costs outweigh the savings made through a more efficient use of resources. This would mean that the consequence of regulation is more profitable companies.

The consequence of contextuality is that all the observed organisations have their own view of themselves and the outside world. At the same time, a common language and behaviour, in relation to Sustainability is constructed. I think the evidence shows, and will show, that EU directives

⁷⁷⁰ Interviewee 6.

⁷⁷¹ Interviewee 3.

and regulations as well the reporting initiatives by GRI and the UN, have had an immense effect on at least how businesses want the environment to perceive them. It could even be argued that what businesses do is a consequence of regulation. This would satisfy the thinking of Teubner and his ideas of reflexive law and raises the question, have the businesses behaved as the legislator intended? Luhmann never thought legislation would not have an effect. What he said and many others like King agree with, is that we never know the effect of legislation - and this I believe is a correct conclusion. This, however, does not stop politicians from legislating anyway hoping to reach a better result. Perhaps this was what Paterson was aiming at in discussing a normative status for reflexive law?⁷⁷³ Luhmann concluded; “organisations are the only mechanism” when it comes to implementing change,⁷⁷⁴ function systems cannot perform change. Organisations, on the other hand, as we have seen in this thesis have implemented the normative principle of Sustainable Development according to their own operations. This is probably the closest to steering we can come, the implementation being self-steering.

In this thesis I have observed three companies, and even if the legislation is the same, their behaviour is not exactly the same even though it is similar. What is striking is that the function of the businesses has changed during the period of observation. This, however, has not necessarily anything to do with Sustainability at all even if it potentially could. Seen as a resource management tool, Sustainability could have changed the self-observation of the organisation and as a consequence it could have emphasised economic Sustainability rather than, let’s say market share.

“Emancipating itself from a single tradition, modernity can construct a plurality of pasts to allow for a contingent present and therefore an open future”.⁷⁷⁵ The plurality of pasts Rash refers to, can be connected directly to contextuality. At the same time, the quote brings forward the

⁷⁷³ Paterson, J, 2006, pp. 34-35.

⁷⁷⁴ Luhmann, N, 2013, p. 157.

⁷⁷⁵ Rasch, W, 2000, p. 65.

unpredictability of the future. Luhmann referred to *ceteris paribus*.⁷⁷⁶ It is impossible to predict social change when no one knows what the consequence of one piece of communication will be. In science it may be possible to conduct experiments where everything else stays the same but this is not possible in sociology.

This discussion has to revert to the issue of reflexive law. One cannot escape the conclusion that the environmental reports of the companies studied seem to bear a resemblance to the EU directive on voluntary eco management and audit scheme. There are compulsory directives such as the chemical directive the IPPC directive and the Seveso directive. Even though the EMAS is voluntary, all of the studied businesses apply it in creating their reports. It is also a helpful tool when it comes to managing the other directives mentioned. EMAS takes the form of a carrot and a stick. It is voluntary but it is helpful in relation to the other directives. If it is not followed the businesses will be in trouble. Is this a way for law to manage social behaviour? It looks like an attempt to do so. Do we know the outcome of it? The idea of reflexive law is criticised. King mentioned his own area of interest i.e. child law where it has not been possible for the law to control family relationships.⁷⁷⁷ It is not possible for law to steer the behaviour of society and nevertheless this seems to be what has been done in this case. Or is it just a coincidence?⁷⁷⁸ The EMAS directive gives a framework for what to include in the reports and in the eco-management and audit system. One could assume this would result in identical reports and behaviour but this is not the case. There is a structural coupling between the law and the businesses through this directive, but it does not result in identical behaviour and especially not in identical thinking. It could perhaps be argued that the directive works as a catalyst. It starts a process within the businesses but what the result will be is entirely up to the businesses themselves. They have to follow the law when it comes to the use of chemicals and handling of waste, but

⁷⁷⁶ Luhmann, N, 1989, p. 81.

⁷⁷⁷ King, M, 2006, p. 48.

⁷⁷⁸ Paterson, J, 2006, p. 35.

the resource management system created can be so much more than just what the law requires of them.

The way EMAS works resembles that of GRI and FSC in that there are accredited verifiers to certify the businesses applying the scheme. This way the implementation is not that strictly connected to the law. There is a problem with these kinds of directives, and this concerns the Global Reporting initiative and the Global Compact as well, and this is the conservation or stagnation it may result in. The directive is only as good as it is. It is limited to what the creators of the directive have known or thought they have known about environmental management. On the other hand, as we have seen there is a competitor to FSC in PEFC and there is a competitor to EMAS as well in the ISO system. A valid question is whether the competition is beneficial or not.

What the research shows is that there are simultaneous processes going on in society in relation to Sustainable Development and Organisational Differentiation. There may be more processes than I have brought forward, but when it comes to lack of legislation or ignorance of legislation, society at large, in our case NGOs, start making noise in order to make business organisations aware of problems in relation to Sustainable Development. Not only do they attempt to make business organisations aware, new NGOs may be established in order to create rules they want businesses to follow. When businesses do follow these rules they simultaneously attempt to become different from their competitors. These processes are independent of each other at the same time as there is dependency among the processes. There is obviously an attempt by NGOs to steer the businesses in one direction or the other, as there is among legislators, but at the same time there is always the possibility for the businesses to say no. Self-steering makes it possible for businesses to embrace Sustainable Development to the extent they are willing to when at the same time they can become different in other areas.

10. Consequences and Conclusions

In *Organisation und Entscheidung*, Luhmann debates what practical consequences for organisation theory his theory has. His answer is that “loose coupling” is a pre-requisite of system stability.⁸¹⁷ The more independence organisations have the more stable they become. Any communicative event by the organisation, however, may cause irritation in its neighbourhood. Organisations may or may not take irritation in their environment into consideration. It is up to the internal operations of the organisation to decide. When organisations do take their environments into consideration it has to be done on their own terms, otherwise they are not capable of doing it. The contextuality,⁸¹⁸ born as an “epiphenomenon” of a-centricity,⁸¹⁹ results in a need for bespoke solutions when it comes to Sustainable Development and this at the same time makes normative goal-based solutions unworkable. Sustainability will always be implemented by businesses and the only way they can find long-term balance between the three pillars of Sustainable Development is to ensure it is the most profitable option.

Poly-contextuality means that there is not one truth or reality, not one solution to a problem - unique solutions have to be found. This supports a proposition that the law cannot be carved in stone. On the contrary, ideas like Sustainable Development should be created in order to give businesses, maybe not free hands to do whatever they like, but the opportunity to reach own conclusions. Is society prepared to accept this kind of a non-normative approach to solutions even if it may be concluded it is the best option? The voluntary eco-management legislation introduced by the European Union is an example of how this has worked. A carrot-and-stick policy that at least in the cases studied has been a success, paves a way for businesses to prepare for legislation that will be introduced anyway. It seems clear, based on the research,

⁸¹⁷ Luhmann, N, 2006(b), pp. 473-474, (my translation).

⁸¹⁸ Günther, G, 2004.

⁸¹⁹ Philippopoulos-Mihalopoulos, A, 2010, p. 177.

that whenever businesses realise they will lose money if they do not change their behaviour then they will change, i.e. the decision premises of the business will change accordingly. This is perhaps no surprise but what needs to be realised is that operationally it is the business that has to change its behaviour. Otherwise it would be a question of a revolution and we have no idea what that would result in.

I have shown that normative anthropocentric or eco-centric approaches just do not work. We have to go beyond this and find a-centric solutions.⁸²⁰ Sustainability seems to be everywhere. This makes it possible to implement, but at the same time it makes it difficult. It makes it possible to abide to anthropocentricity, eco-centricity and the economy simultaneously without mixing the concepts. Perhaps in accepting anthropocentricity and eco-centricity as they are, there is a way forward beyond anthropocentricity and eco-centricity.

Supporters of New Critical Environment Law are looking for a new approach to environmental law that goes beyond centrality.⁸²¹ This thesis goes beyond anthropocentricity and eco-centricity by leaving them aside and concluding that each system has to be based upon its own unique contextuality. Sustainability is paradoxical in that, when it comes to businesses, the economy comes first when at the same time a balance between the three pillars of Sustainability is aimed at. This thesis gives the proposition that this paradox is not impossible to resolve.

The legal cornerstone for this thesis has been what I have called the legal principle of Sustainable Development. The purpose of a legal principle should be to fulfil the expectations of society. I believe the principle of Sustainable Development attempts to do this. It is interesting that not a single interviewee shared the view that we are dealing with a legal concept at the outset. Only through discussion did it show that the law was present. It just seems to be the case that Sustainable Development has managed, maybe even through deception, to sneak in through the

⁸²⁰ Philippopoulos-Mihalopoulos, A, 2012, p. 7.

⁸²¹ Ibid.

back door and has implemented itself without those involved having even realised it is a legal principle. In *Ecological Communication*,⁸²² Luhmann brings forward the view that the only way ecological issues can be dealt with is through the function systems of society. This is how ecological issues emerge through the political system. The green agenda introduced by the green movement is nowadays included in the programmes of the main political parties. Sustainable Development adapted by businesses made it a part of their business models in the same way as political parties made green values a part of their own agendas.

In a critique of Luhmann, Wan takes up the discussion I referred to earlier in relation to the purpose of protest movements.⁸²³ He seems disillusioned by the lack of end in the activities of protest movements and that they do not actually take the lead and run, say, businesses. My view is that Luhmann saw protest movements as a sign of something being wrong in their environment. The purpose of these movements is exactly this: to make sure all systems are aware of something being wrong. "They have to raise awareness for their goals". "Sie müssen Aufmerksamkeit gewinnen für ihre Ziele".⁸²⁴ It is beyond their expertise to start running businesses or political parties. The furthest they can go I believe is to start Green Parties and NGOs like FSC that bring in expertise but not to actually start running the businesses they criticise. When it comes to Green Parties, they may even have gone too far in some instances and lost touch with their roots in being too diluted. Besides, these movements in the form of protest movements or NGOs are needed in order for society not to go astray. How would businesses otherwise realise that they are behaving in an inappropriate manner? The uncertainty the environment introduces is exactly what keeps the subsystems' autopoiesis viable. I cannot see this as sarcastic at all if we do not want to destroy the system.

⁸²² Luhmann, N, 1989, p. 36.

⁸²³ Wan, P, 2011, p. 5.

⁸²⁴ Luhmann, N, 1996, (my translation) p. 192.

In legal terms it can be debated what status Sustainable Development has. I have concluded that there is Sustainable Development Law and that Sustainability has reached or is approaching the status of a legal principle. The way I have dealt with it, however, is more in conformity with the views of the reasonable man on the omnibus on his way to Clapham Common than a principle based on law. I also think this is the way or code for NGOs to use the principle. It is blurred enough to give them the legitimacy needed to criticise and this is important. This is what social movements are there for in the first place.

One of the big questions among scholars around Luhmann's theory on social systems I have referred to has been whether society can be steered through the legal system. Luhmann was clear on this and concluded it is not possible because we will never know the outcome. This work, however, shows that when society does not legislate or business organisations do not behave according to the expectations of society, in this case Sustainability, then society will make an effort to irritate businesses in order to create resonance within them, thus pushing them to include the principle in their business models. It is most of the time either environmental organisations that protest about environmental issues or organisations working with social issues that protest in relation to social questions. Only to a limited extent do they combine the two, even though organisations like WWF clearly attempt to involve both. As shown in the previous chapter there are simultaneous processes going on encouraging sustainable behaviour in the form of minimising difference.

The research, however, also highlights that there are attempts by legislators to steer society in the form of voluntary schemes. This is paradoxical keeping in mind that society is un-steerable. As brought forward in the introduction on p. 6, Luhmann was advocating an organisation theory that in a better way than classical problem-solving theories takes ecology into account.⁸²⁵ He suggests this could be done

⁸²⁵ Luhmann, N, 1998(a), p. 107.

through observing how ecological problems are dealt with.⁸²⁶ It is interesting to note that the way the legislator has dealt with this in relation to environmental directives is through directives that include the reflexivity promoted by Teubner,⁸²⁷ and Paterson.⁸²⁸ But is not this the legal system's way of self-steering? Law is attempting to minimize the difference between itself and its environment in order to fulfill the expectations of society.

One has to keep in mind that Greenpeace activists did not climb Stora Enso's head quarters without a reason and that they did not chain themselves to UPM's head office just to kill time.⁸²⁹ In order to escape these kinds of problems the businesses had to minimise the difference in terms of environmental issues. In Stora Enso's case it was a question of old forests. These forests were saved and a discussion between the business and Greenpeace began. Today the market expects pulp and paper companies to have their house in order and conduct their businesses in a sustainable manner. When they do they can concentrate on becoming different.

I have briefly discussed the use of Luhmann's theory. It has been considered ineffective when it comes to steering by some scholars,⁸³⁰ and criticised by others because it does not tell us what the future should be like. This is the kind of criticism brought forward by Mathur.⁸³¹ The criticism delivered by King can be presented in his own words: "put another way, even if there are lawyers, politicians, scientists or economists who believe they have found the answer to these problems, how do they convince other systems operating other norms, different criteria for validity and legitimacy that their answer is the right one?"⁸³²

⁸²⁶ Luhmann, N, 1998(a), p. 107.

⁸²⁷ Teubner, G, 1982-1983.

⁸²⁸ Paterson, J, 2006.

⁸²⁹ Discussion with former UPM employee, 2011.

⁸³⁰ King, M, 2006, p. 52.

⁸³¹ Mathur, P, 2009, pp. 329-362.

⁸³² King, M, 2006, p. 51.

Luhmann's theory shows us that we do not know what the consequence of decision x or y will be. Society is just too complex for that. Society cannot be steered from the top with an ultimate goal in mind because we do not know what the reactions will be. On the other hand, do other theories result in Utopia? I do not think so. What is then the use of the outcome of this work? One question that can be asked is whether Luhmann's organisations theory has been considered to the extent that it should. I think the outcome of this work shows that when different sub systems of society are affected by each other, the consequences may be good for not just the irritants, in this case NGOs, but also for businesses.

My perception is that environmental issues, by businesses are often seen as something to be taken care of by the law department or a similar institution that do not form part of the day to day running of a business. A legalistic approach is taken, in the same manner as described by the chairman of UPM, when he discussed the behaviour of NGOs at AGMs on page 4.⁸³³ The law, however, does not stop NGOs from protesting when something that may be legal still is not just.

What the study shows is that the law, in this case as applied to Sustainable Development, does not have to be seen as a hindrance from doing business. On the contrary, the proposition is that the principle has been integrated to become a part of the businesses' business models honouring the expectations of society. If nothing else, the way Sustainability has been carried forward seems to increase the likelihood of taking society in a direction that can satisfy economic, social and environmental expectations. Now one can ask the question, whose expectations and whose desires? There cannot be just one set of expectations. Society will always be chaotic with more views than one. Law, however, cannot be the only instrument for steering society. There are just too many minds. The Aristotelian worldview is based upon one universal truth. This may be a possibility in science; in sociological terms, however, it seems to be impossible.

⁸³³ Wahlroos, B, 2012, (my translation), p. 123.

This thesis shows that NGOs have a role to play in implementing Sustainability when it comes to the pulp-and paper industry – that when the law is not sufficient – or this is the proposition – then NGOs may create new organisations with the specific aim of producing new rules for how businesses should behave. The proposition is that Luhmann’s suggestion that protest movements now in the form of NGOs have a role to fulfil in calling for businesses’ “sense of responsibility”⁸³⁴. The structure created through Westphalia is not enough. Rules and regulations as we have seen evolve outside the legal system.

I believe the awareness of an issue like Sustainable Development and simultaneous processes in relation to it helps organisations to reduce difference between themselves and their environment and at the same time increase difference in the form of Organisational Differentiation. This in itself would be a good use of the theory. It would be a good idea for businesses to become less legalistic and more aware of the expectations of society.

So how should businesses behave in relation to NGOs? Should they stick to the law and just ignore what NGOs have to say? I think it is obvious that they should not. In the introduction I asked what role social movements have in relation to environmental and social problems. They clearly have a role to play. The environment of business organisations is the eyes and ears of businesses. As discussed in chapter 8 there are other organisations also having an impact when it comes to making businesses aware of social and environmental problems. Social movements, however, do not only raise awareness among businesses but also among other organisations that in turn raise awareness of social and environmental problems. Businesses should through their cognition take on board the awareness of problems their environment is giving them. How they should manage it operationally is obviously up to the organisations themselves to decide. They cannot do it based on anyone else’s rules. They have to do it based on their internal operations. The

⁸³⁴ Luhmann, N, 2008, p. 125.

uneasiness organisations feel inside is a symptom of a problem in the environment.⁸³⁵ It is in their interest to adjust in order not to be part of the problem. The thesis shows that when parliaments do not comply with expectations of society, then systems outside the legal and the political system will attempt to create rules outside the legal framework. Then the question can be asked whether it has to be outside the legal framework after all. In chapter 3 p. 26 I raised the question of what code would be used by NGOs. Would it be legal/illegal or just/unjust or some other code? My conclusion was that in relation to legislating NGOs the relationship is contractual and therefore does not pursue a problem. The code would still be legal/illegal. The role of NGOs raising awareness through irritation, their task is just that, to make businesses aware of problems. It is up to the national legislator to meet the expectations of society.

I have also shown that Sustainability can be used to include ecological issues in organisation theory of social systems, something that Luhmann was advocating - this in an a-centric manner. The organisations studied did not just include ecological issues but they also integrated it into their business models. This integration of Sustainability into their business models shows the paradox of Sustainability. Businesses can be sustainable and aim for profit at the same time. It can only conduct its business in a sustainable manner when excluding old practice no longer considered appropriate.

My research questions were - how do business organisations react to Sustainability and what factors do they take into consideration when deciding on Sustainability? The answer is that the way the organisations have reacted has resulted in systems that have included Sustainability in their business models. This means that the process (autopoiesis) has given a structure in the form of decision premises that take the three pillars of Sustainability into account while still responding to irritation in

⁸³⁵ Philippopoulos-Mihalopoulos, A, 2012, p. 27.

its environment to the extent it is considered necessary. This way Sustainability will continue to evolve. One important insight coming from the answer of the research question is that it is the businesses themselves that have to implement Sustainability, no one else. This may sound obvious but I doubt this is a universal approach.

In Luhmann's theory, as in Maturana and Varela's, autopoiesis is the starting point even if he arrived at similar conclusions in relation to self-reference before. Later, Spencer-Brown's *Laws of Form* and in particular that the distinction brings in the blind spot and the second order observation were added. The fourth pillar of Luhmann's thinking is the contextuality brought in through Gotthardt Günther. As I have concluded earlier, contextuality is a by-product of a-centricity.⁸³⁶ This a-centric reality makes it difficult if not impossible to find one truth or reality. There will always be different meanings. Looking at industries as part of society is fruitful in order to try to understand the poly-contextural world. In this case there is no micro and no macro level. There is no hierarchy - just sub systems.

Luhmann in his reasoning starts with the observer observing something. Later the observation becomes more and more important. In fact, what he says is that the observation can either be in the form of an external observer observing another system observing itself or as a self-observer observing himself.⁸³⁷ At the end the observation becomes what is important. In this case, the businesses studied have changed the way they observe Sustainability. For them it is not about being green it is about managing resources in order to maintain the balance between the three pillars of Sustainability. Sustainable Development is something that was forced upon the businesses by their environment. They managed to create a distinction that meant they could manage it, making the businesses very similar when it comes to Sustainability. This became an integrated part of their business model. They, however, also managed to

⁸³⁶ Philippopoulos-Mihalopoulos, A, 2010, p. 177.

⁸³⁷ Luhmann, N, 2006(a), p. 54.

create business models that became different from each other's models. This obviously does not mean that all businesses within an industry would become different. There will always be those trying to imitate each other, but in the same way that Sustainability is similar and not identical, business models that resemble each other's models do not have to be the same. The closer we look the more difference there will be.

I have kept myself rather narrowly within the theory of social systems introduced by Luhmann. I have tried to bring forward the use of organisations as vehicles that develop society. Luhmann's theory is not just about function systems but of organisations as well, organisations that in themselves have a function or functions to fulfil based on their Organisational Differentiation. This is something decided not by society but by the organisations themselves. This function is to some extent an illusion in that the meaning communicated by an organisation is just the way it tries to differentiate itself from the outside world.

Organisations cannot be seen in isolation. This is especially true when it comes to businesses. They are all part of society. If not before, globalisation has made this even more significant. National Parliaments are local to their character even if they subscribe to international treaties. Many organisations, however, are global and even more powerful than Member States of the UN. This concerns businesses and NGOs alike. In this thesis we have seen how both business organisations and NGOs are above national borders and the challenge this poses to society.

In relation to future studies on the evolvement of Sustainability, it would be interesting to look at another industry based on small and medium sized businesses, exploring how and if Sustainable Development can be implemented successfully. Could it be the case that social movements, customers and consumers do not bother about minor players in the same way as big businesses like the ones studied? A prerequisite for society moving towards sustainability seems to be the awareness of the need for sustainable measures. If the environment of business organisations does not require sustainable measures then it is questionable whether it will

become in the interest of organisations to become sustainable. One of the interviewees referred to other big businesses as role models. Who could be the role model for smaller organisations? Is this so difficult after all? Can resource management tools not be adjusted for both social issues and environmental ones, or be created for any business?

A phenomenon like Sustainability is something that cannot be steered. It is like a river looking for its riverbed. It moves forward whether we like it or not. This is something the businesses studied seem to have realised. They can aim towards using Sustainability as a competitive advantage or not but they cannot ignore it - a competitive advantage, real or perceived, will soon be eradicated by competitors anyway. If they do ignore Sustainability the environment around the businesses will not ignore this. At the same time, steered or not, it definitely does not lack direction. This may give the impression that there is someone steering society in one direction or another. The way the businesses I studied behaved gives the impression of an invisible hand taking them all in the same direction and more or less simultaneously. In Luhmann's words the "world is indeterminate because it is determined - not centrally, to be sure, but merely locally".⁸³⁸ The same direction is therefore an illusion of similarity. The contextuality of organisations, however, makes it possible for them to adapt to changes in their environment, the consequence being that they can become similar and different simultaneously.

The business organisations studied have through self-reference reduced the difference between their environment and themselves, and thus managed to create a more sustainable and distinct autopoiesis becoming different. The organisation theory including the ecology Luhmann was asking for was before our eyes all the time. We just could not see what we could not see. Somehow this environment was present in its absence all along. I have shown, as argued in the introduction p. 1, that when there is

⁸³⁸ Luhmann, N, 2013, p. 128.

a sense of irritation in the environment of business organisations due to the absence of sustainable measures, it is in their interest to integrate Sustainable Development into their business models in order to sustain their autopoiesis. I hope I have shown “Sustainable Autopoietic Organisations” can “Thrive on Sustainable Development”.

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